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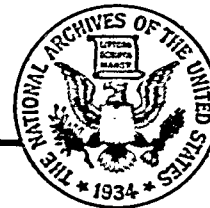
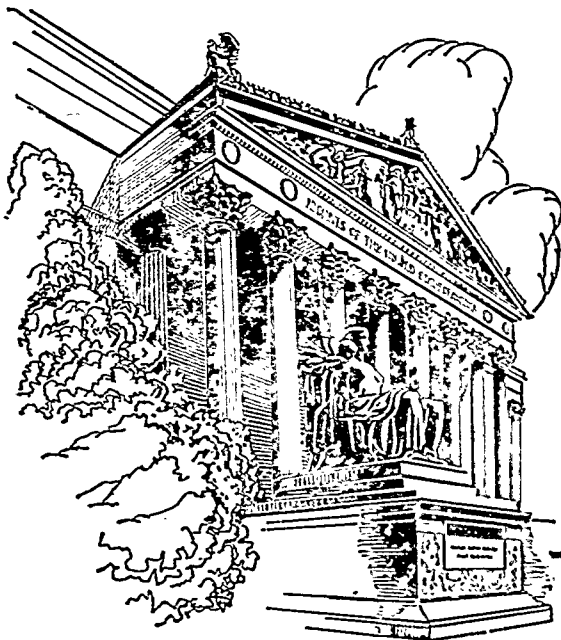
Tuesday, October 10, 1967 • Washington, D.C.

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Agencies in this issue—

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Agricultural Stabilization and
Conservation Service
Agriculture Department
Atomic Energy Commission
Business and Defense Services
Administration
Civil Aeronautics Board
Civil Service Commission
Commerce Department
Consumer and Marketing Service
Customs Bureau
Federal Aviation Administration
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Federal Power Commission
Fish and Wildlife Service
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Labor Standards Bureau
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Public Health Service
Securities and Exchange Commission
Small Business Administration
Wage and Hour Division

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Announcing First 10-Year Cumulation

TABLES OF LAWS AFFECTED

in Volumes 70-79 of the

UNITED STATES STATUTES AT LARGE

Lists all prior laws and other Federal instruments which were amended, repealed, or otherwise affected by the provisions of

public laws enacted during the years 1956-1965. Includes index of popular name acts affected in Volumes 70-79.

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List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

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Title 3—THE PRESIDENT

Proclamation 3812

NATIONAL DAY OF PRAYER, 1967

By the President of the United States of America

A Proclamation

Abraham Lincoln, leaving his beloved Illinois to assume the office of President, told his friends in farewell:

I now leave, not knowing when or whether ever I may return, with a task before me greater than that which rested upon Washington. Without the assistance of the Divine Being who ever attended him, I cannot succeed. With that assistance, I cannot fail. Trusting in Him who can go with me, and remain with you, and be everywhere for good, let us confidently hope that all will yet be well. To His care commending you, as I hope in your prayers you will commend me, I bid you an affectionate farewell.

At every moment of crisis, in every hour of trial, our people have prayed for guidance and strength from their Creator. On that day when Americans first declared themselves to be free, they appealed to "the Supreme Judge of the world for the rectitude of our intentions."

Today, favored as we have been as a land and people, we have not forgotten the ultimate source of every power for good. In churches, in homes, or, as St. Paul said, "In sighs too deep for words," we pray that "in the time of prosperity, fill our hearts with thankfulness. And in the day of trouble, suffer not our trust in Thee to fail."

Sensible of our people's faith, the Congress, by a joint resolution of April 17, 1952, provided that the President "shall set aside and proclaim a suitable day each year, other than a Sunday, as a National Day of Prayer, on which the people of the United States may turn to God in prayer and meditation at churches, in groups, and as individuals."

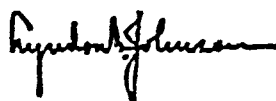
NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, do hereby set aside Wednesday, October 18, 1967, as National Day of Prayer, 1967.

Let each of us pray that God will endow us with the constancy to prevail in defense of freedom, and with the courage and resolution to preserve and extend His blessings of liberty.

Let us ask God to enlighten the minds of all our people so that we may work together to remove the inequalities that are among us. Let us pray that the Supreme Lawgiver will inspire all Americans to take the law into our hearts, not into our hands, and teach us all a respect for the rights of our fellowmen.

Let us all thank God for His bounty, praying as we do that He will make America worthy of its continuance.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of October, in the year of our Lord nineteen hundred and sixty-seven, and of the Independence of the United States of America the one hundred and ninety-second.



[F.R. Doc. 67-12073; Filed, Oct. 9, 1967; 11:30 a.m.]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission PART 213—EXCEPTED SERVICE

Executive Office of the President and President's Committee on Consumer Interests

In F.R. Doc. 67-8270 of July 19, 1967, the position of One Public Affairs Officer in the President's Committee on Consumer Interests was put in § 213.3303, *Executive Office of the President*, in error. To correct this, paragraph (e) and subparagraph (1) thereunder of § 213.3303 are revoked and a new paragraph (d) is added to § 213.3371 as set out below.

§ 213.3303 Executive Office of the President.

(e) [Revoked]

§ 213.3371 President's Committee on Consumer Interests.

(d) One Public Affairs Officer.

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR, 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-11914; Filed, Oct. 9, 1967; 8:47 a.m.]

Title 7—AGRICULTURE

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER F—DETERMINATION OF NORMAL YIELDS AND ELIGIBILITY FOR ABANDONMENT AND CROP DEFICIENCY PAYMENTS

[Sugar Determination 847.2, Rev., Supp. 13]

PART 847—PUERTO RICO

Approved Local Producing Areas for 1966-67 Crop

Pursuant to the provisions of § 847.2, as revised (27 F.R. 6080), the Director of the Agricultural Stabilization and Conservation Service, Caribbean Area Office, hereby makes the following determinations:

§ 847.15 Approved local producing areas in Puerto Rico.

For purposes of considering eligibility of farms for abandonment and crop deficiency payments on the 1966-67 sugar-

cane crop in Puerto Rico, the following named municipalities and single wards are determined to be local producing areas in which, due to drought, the actual yields of sugar for the 1966-67 crop year from 10 percent or more of the total number of farms or part of farms; or from 10 percent or more of the total planted acreage of sugarcane in each such local producing area were below 80 percent of the applicable farm normal yields:

(a) *Municipalities.* Aguada, Aguadilla, Añasco, Arecibo, Arroyo, Barceloneta, Bayamón, Cabo Rojo Caguas, Camuy, Cataño, Ceiba, Ciales, Cidra, Corozal, Dorado, Fajardo, Guánica, Guayama, Guayanilla, Hatillo, Hormigueros, Humacao, Isabela, Jayuya, Juana Díaz, Juncos, Lajas, Lares, Las Marías, Las Piedras, Loíza, Manatí, Maunabo, Mayaguez, Moca, Morovis, Naguabo, Patillas, Peñuelas, Ponce, Quebradillas, Rincón, Río Grande, Sabana Grande, San Germán, San Lorenzo, San Sebastián, Santa Isabel, Toa Alta, Utuado, Vega Alta, Vega Baja, Vieques, Villalba, Yabucoa, and Yauco.

(b) *Single wards.* Ward Robles, of the municipality of Albonito; wards Canovillas, Carruzos, and Cedros, of the municipality of Carolina; ward Rincón, of the municipality of Cayey; ward Jaguas, of the municipality of Gurabo; and ward Río Jueyes, of the municipality of Salinas.

Statement of bases and considerations. One of the conditions of eligibility of a farm in Puerto Rico for an acreage abandonment or crop deficiency payment in connection with the production of sugar from sugarcane is that the farm be located in a local producing area for which the Director of the Agricultural Stabilization and Conservation Service, Caribbean Area Office, determines that drought, flood, storm, disease, or insects have damaged a substantial part of the sugarcane crop in such area.

The purpose of this supplement is to set forth that the specified municipalities and single wards have been determined to comprise local producing areas for the 1966-67 crop and that such areas have qualified under the requirements relating to crop damage. Any sugarcane producer on a farm which is located in whole or in part in any one of these local producing areas, and which is otherwise qualified, may apply for payment accordingly, if he has not already done so.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153; sec. 303, 61 Stat. 930; 7 U.S.C. 1133)

CARLOS G. TROCHE,
Director, Agricultural Stabilization and Conservation Service, Caribbean Area Office.

SEPTEMBER 26, 1967.

[F.R. Doc. 67-11930; Filed, Oct. 9, 1967; 8:49 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Subtitle A—Office of the Secretary of Commerce

PART 4—PUBLIC INFORMATION

Scope and Purpose

The President's Cabinet Textile Advisory Committee and the Foreign-Trade Zones Board are added to the list of organizations in the Department of Commerce and organizations associated with the Department of Commerce whose materials, specified in 5 U.S.C. 552(a)(2), and the identifiable records requested under 5 U.S.C. 552(a)(3), will be made publicly available under the provisions of this Part 4.

Section 4.1(a) is revised to read as follows:

§ 4.1 Scope and purpose.

(a) This part contains the rules whereby the materials specified in 5 U.S.C. 552(a)(2), and the identifiable records requested under 5 U.S.C. 552(a)(3), are to be made publicly available by the following organizations in the Department of Commerce and organizations associated with the Department of Commerce:

(1) Organizations in the Department of Commerce:

(i) All components of the Office of the Secretary of Commerce,

(ii) The Office of Business Economics,

(iii) The U.S. Travel Service,

(iv) The Office of State Technical Services,

(v) The National Bureau of Standards,

(vi) The Business and Defense Services Administration,

(vii) The Bureau of International Commerce,

(viii) The Office of Field Services,

(ix) The Office of Foreign Commercial Services,

(x) The Office of Administration (DIB),

(xi) The Office of Publications and Information (DIB).

(2) Organizations associated with the Department of Commerce:

(i) The President's Cabinet Textile Advisory Committee,

(ii) The Foreign-Trade Zones Board.

Dated: October 3, 1967.

DAVID R. BALDWIN,
Assistant Secretary for Administration.

[F.R. Doc. 67-11889; Filed, Oct. 9, 1967; 8:48 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. 34-8172]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Forms for Reports To Be Made by Certain Exchange Members, Brokers, and Dealers

The Securities and Exchange Commission today adopted a general revision of its Form X-17A-5 (17 CFR 249.617), the report of financial condition required to be filed annually by most members of national securities exchanges and every broker or dealer registered pursuant to section 15 of the Securities Exchange Act of 1934. A proposal to amend the form together with an invitation for public comment was published on August 23, 1965, in Securities Exchange Act Release No. 7683 (and in the FEDERAL REGISTER of Aug. 28, 1965, 30 F.R. 11147). The revisions of the form and related audit requirements reflect changing conditions and practices in the securities industry and are based on experience gained from examination of reports filed with the Commission over the years as well as consideration of all the comments and suggestions received in response to the invitation for public comment.

The principal changes are summarized below:

1. Market valuations of all securities and spot (cash) commodities positions (other than customers' securities in segregation and safekeeping) must be reported in response to all questions.

2. General Instruction B.5 requires identification of "securities not readily marketable" and contains a definition of the term.

3. General Instruction B.12 requires that securities sold as principal under a repurchase agreement shall be reported as a financing transaction and not as a sale.

4. A facing sheet has been added to conform to our uniform filing requirements. (In this connection a broker-dealer who does not know his SEC file number may obtain this information from the regional office of the Commission in which his principal place of business is located. Copies of the facing sheet may also be obtained from the regional offices of the Commission.)

5. Note 2 to Question 4 requires disclosure of securities failed to deliver and securities failed to receive outstanding for 30 days or longer.

6. Customers' fully paid securities which are not segregated are required to be reported separately under Question 6.G.

7. Question 12 requires separate reporting of all accounts and borrowings which are subject to "satisfactory subordination agreements."

8. Question 15 requires separate reporting of participations in joint trading and joint investment accounts carried by others that are not recorded in the respondent's ledger accounts for money.

9. Question 16 requires the disclosure of any unrecorded assets, liabilities, and accountabilities.

10. A schedule of commodities positions in both customers' and respondent's accounts is required by Item (c) of Part II, Supplementary Information.

11. The Audit Requirements have been expanded to require the independent public accountant to comment on any material inadequacies found to exist in the accounting systems, the internal accounting control, and procedures for safekeeping securities and to report any corrective action taken or proposed. The proposal published in Securities Exchange Act Release No. 7683 (30 F.R. 11147), indicated that if the accountant's comments on these inadequacies are contained in a supplementary certificate and filed in accordance with the procedures set out in paragraph (b) (3) of Rule 17a-5 (17 CFR 240.17a-5), they would be placed in a nonpublic file. The amendment of paragraph (b) (3) of Rule 17a-5 specifically provides for this.

12. Item (6) (f) of the Audit Requirements has been revised to permit confirmation on a test basis of (a) customers' accounts without balances, securities positions or commitments, and (b) accounts closed since the last audit. The note to Item 6 provides that the independent public accountant may use either positive or negative requests in confirming accounts closed since the last audit.

13. Item (8) of the Audit Requirements requires the independent public accountant to verify the computation of the ratio of aggregate indebtedness to net capital at the audit date and to review the procedures followed by the respondent in making the periodic computations required under the provisions of Rule 17a-3(a) (11) (17 CFR 240.17a-3 (a) (11)).

In the audit of a broker or dealer in securities it has long been recognized that for full effectiveness the audit should be commenced at the time unannounced to anyone associated with the broker-dealer. This procedure is now widely followed in the audit of larger broker-dealers. It is recommended that the independent public accountant have an arrangement with his client under which the examination and audit can be made on such an unannounced basis.

The revised form will be applicable to all reports on Form X-17A-5 (17 CFR 249.617) which are prepared as of November 30, 1967, or any date thereafter. A copy of the form is set forth below and copies will be available at the headquarters office in Washington, D.C., and the regional offices of the Commission not later than November 30, 1967.

The Commission is interested, on a continuing basis, in learning of any special problems which are encountered in complying with the revised form and related audit requirements, and would appreciate receiving comments based on experience as a basis for determining whether any further revisions are necessary in the future.

Commission action. The Securities and Exchange Commission, acting pursuant to the Securities Exchange Act of 1934, and particularly sections 3(b), 17(a), and 23(a) thereof, and deeming such action necessary and appropriate in the public interest, for the protection of investors, and for the execution of its functions under the Act, hereby amends Parts 240 and 249 of Chapter II of Title 17 of the Code of Federal Regulations by amending Form X-17A-5 (17 CFR 249.617) as provided in Form X-17A-5 as revised November 30, 1967, and paragraph (b) (3) of § 240.17a-5, as stated below. This revised form shall be used by all members of national securities exchanges and all brokers and dealers who file Form X-17A-5 (17 CFR 240.617) reports of financial condition as of November 30, 1967, or any date thereafter, pursuant to Rule 17a-5 (17 CFR 240.17a-5) under the Act. The above amendments are effective November 30, 1967.

The text of the amendment to § 240.17a-5 is as follows:

§ 240.17a-5 Reports to be made by certain exchange members, brokers and dealers.

* * * * *

(b) *Nature and form of reports.* * * *

(3) If the schedules furnished pursuant to the requirements of items (a), (b), and (c) of part II and the supplementary accountant's certificate furnished pursuant to the audit requirements of Form X-17A-5 are bound separately from the balance of the report, they shall be deemed confidential, except that they shall be available for official use by any official or employee of the United States or any State, by national securities exchanges and national securities associations of which the person filing such report is a member, and by any other person to whom the Commission authorizes disclosure of such information as being in the public interest. Nothing contained in this paragraph shall be deemed to be in derogation of the rules of any national securities association or national securities exchange which give to customers of a member, broker or dealer the right, upon request to such member, broker, or dealer, to obtain information relative to his financial condition.

§ 249.617 Form X-17A-5—Information required of certain members, brokers, and dealers pursuant to section 17 of the Securities Exchange Act of 1934 and Rule 17a-5 (17 CFR 240.17a-5) thereunder.

(a) *General instructions.*

A. Rules as to use of Form X-17A-5:

1. This form shall be used by every member, broker or dealer required to file reports

under Rule 17a-5(a). It is not to be used as a blank form to be filled in but only as a guide in the preparation of the report. No caption need be shown as to which the items and conditions are not present.

2. The name of the respondent and date of report shall be repeated on each sheet of the answers and schedules submitted.

3. If no answer is made to a question or subdivision thereof it shall constitute a representation that respondent has nothing to report.

B. Presentation of information (including definitions):

1. The information presented shall be sufficient to permit the determination of the financial condition of the respondent.

2. The valuations of customers' securities in segregation or safekeeping need not be included in the answers.

3. Use separate pairs of columns for ledger debit and ledger credit balances; long security and spot (cash) commodity valuations and short security and spot (cash) commodity valuations; net losses in future commodity contracts and net gains in future commodity contracts. All columns must be totaled. The total of debit balances must equal the total of credit balances. The total of long security and spot (cash) commodity valuations must equal the total of short security and spot (cash) commodity valuations; the total losses and the total gains in future commodity contracts must be in agreement after consideration of "commodity difference accounts." The answers to Questions 14, 15, and 16 shall not be included in the totals.

4. Security and spot (cash) commodity valuations and losses and gains in future commodity contracts shall be based upon current market prices; fractions and accrued interest may be omitted except where such procedure in the case of short positions would have a material effect upon net capital.

5. "Securities not readily marketable" shall be so designated. The term "securities not readily marketable" shall include, but not be limited to, (a) securities, except "exempted securities," for which there is no market on a securities exchange or no independent publicly quoted market; (b) securities which cannot be publicly offered or sold unless registration has been effected under the Securities Act of 1933 (or the conditions of an exemption such as Regulation A under section 3(b) of such Act have been complied with); and (c) securities which cannot be offered or sold because of other arrangements, restrictions, or conditions applicable to the securities or to the respondent.

6. All accounts (other than regulated commodity accounts) of any one customer may be combined and reported under any appropriate classification other than Question 6.A. Customers' accounts related by bona fide written guarantees may be combined.

7. For the purpose of this questionnaire the term "customer" shall not include the respondent, general partners, officers, or directors. An account covered by a "satisfactory subordination agreement" shall be reported in answer to Question 12.

8. Foreign currency may be expressed in terms of U.S. dollars at the current rate of exchange and where carried in conjunction with the U.S.-dollar balances for the same customer may be consolidated with such U.S.-dollar balances and the gross or net position reported in its proper classification, provided the foreign currency is not subject to any restrictions as to conversion. If the foreign currency position so treated is substantial, some indication of its size shall be given.

9. If the respondent is a sole proprietor, all accounts carried by brokers, dealers, or others for the respondent which contain money balances and/or securities allocated to or

otherwise used in connection with his business shall be reported in the answers to Questions 1 through 16, as appropriate.

10. "Exempted securities" are those securities defined as such under the provisions of section 3(a)(12) of the Securities Exchange Act of 1934 other than securities designated for exemption by action of the Securities and Exchange Commission.

11. The term "contractual commitments" shall include underwriting, when-issued, when-distributed and delayed delivery contracts, repurchase agreements, endorsements foreign currencies, and spot (cash) commodity contracts but shall not include future commodity contracts and uncleared "regular way" purchases and sales of securities. A series of contracts of purchase or sale of the same security conditioned, if at all, only upon issuance may be treated as an individual commitment.

12. For the purpose of this questionnaire securities sold as principal under an agreement to repurchase shall be stated separately and clearly indicated as such in the answers to Questions 3.A. and 10.

(b) Facing page.¹

Form X-17A-5

Information required of certain brokers and dealers pursuant to section 17 of the Securities Exchange Act of 1934 and Rule 17a-5 thereunder.

SEC File Number -----
Name of registrant (if individual, state last, first, middle name) -----
IRS employer identification or Social Security No. -----
Name under which business is conducted (if different) -----
Address of principal place of business -----

The attached report reflects the financial condition of the above registrant as of: -----

(date) -----
Independent public accountant whose opinion is contained in this report: Name and address (if individual, state last, first, middle name) -----
IRS employer identification or Social Security No. -----

Check one:
Certified public accountant -----
Public Accountant -----
Accountant not resident in United States or any of its possessions -----
This report consists of (check below):
Part I—Financial information -----
Part II—Supporting Schedules -----
Accountant's Certificates -----

(c) Part I—Financial questionnaire.

QUESTION 1—BANK BALANCES AND OTHER DEPOSITS

State separately total of each kind of deposit (cash and/or market value of securities) with adequate description. This shall include cash on hand; cash in banks representing general funds subject to immediate withdrawal; cash in banks subject to withdrawal restrictions; funds segregated pursuant to regulations of any agency of the Federal Government, any State, any national securities exchange or national securities association; contributions to clearing organizations incident to membership; deposits with clear-

¹ Note: The Commission has designed the facing page for this form specifically for use in transposing information thereon as requested above into automatic data processing equipment and copies of such facing page should be obtained from the Commission for purpose of preparing this report.

ing organizations in connection with commitments; guaranty and margin deposits; good faith deposits (see note 3 to Question 14); drafts with securities attached deposited for collection.

QUESTION 2—MONEY BORROWED, AND ACCOUNTS CARRIED FOR RESPONDENT BY OTHER BANKING OR BROKERAGE HOUSES, SECURED BY OR CONTAINING CUSTOMERS' COLLATERAL

State separately totals of ledger net debit balances; ledger net credit balances; long security valuations; short security valuations; spot (cash) commodity valuations; net losses and net gains in future commodity contracts, and classify as follows:

A. Money borrowed:
1. From banks, trust companies, and other financial institutions.
2. From others.

B. Accounts carried for respondent by other banking or brokerage houses, including omnibus accounts:

1. Securities accounts:
a. Accounts with net debit balances.
b. Accounts with net credit balances.
2. Commodities accounts:
a. Regulated commodities futures accounts:

1. Accounts liquidating to an equity.
11. Accounts liquidating to a deficit.
b. Nonregulated commodities futures accounts:

1. Accounts liquidating to an equity.
11. Accounts liquidating to a deficit.
c. Spot (cash) commodity accounts:
1. Accounts with net debit balances.
11. Accounts with net credit balances.

Notes:
1. To the extent that the collateral for the loan, or other amount payable, also includes additional collateral owned by others than customers, the valuation of such collateral shall be shown separately and designated as owned by respondent, general partners, officers, directors, or others, including securities covered by subordination agreements.

2. If collateralized entirely by "exempted securities," the amount of the borrowing, or amount payable to a banking or brokerage house, and the valuation of the collateral shall be stated separately.

QUESTION 3—MONEY BORROWED, AND ACCOUNTS CARRIED FOR RESPONDENT BY OTHER BANKING OR BROKERAGE HOUSES, UNSECURED, OR SECURED ENTIRELY BY COLLATERAL OWNED BY RESPONDENT AND ITS PARTNERS OR ITS OFFICERS AND DIRECTORS, OR BY SECURITIES COVERED BY "SATISFACTORY SUBORDINATION AGREEMENTS"

State separately totals of ledger net debit balances; ledger net credit balances; long security valuations; short security valuations; spot (cash) commodity valuations; net losses and net gains in future commodity contracts, and classify as follows:

A. Money borrowed:
1. From banks, trust companies, and other financial institutions.
2. From officers and directors.
3. From others.

B. Accounts carried for respondent by other banking or brokerage houses:

1. Securities accounts:
a. Accounts with net debit balances.
b. Accounts with net credit balances.
2. Commodities accounts:
a. Regulated commodities futures accounts:

1. Accounts liquidating to an equity.
11. Accounts liquidating to a deficit.
b. Nonregulated commodities futures accounts:

1. Accounts liquidating to an equity.
11. Accounts liquidating to a deficit.
c. Spot (cash) commodity accounts:

- i. Accounts with net debit balances.
- ii. Accounts with net credit balances.

NOTE: State separately borrowings under A or credit balances under B.1.b. and/or B.2.c.ii.:

1. Unsecured.
2. Not adequately collateralized under Rule 15c3-1(c)(6) [17 CFR 240.15c3-1(c)(6)].
3. Collateralized in whole or in part by securities and/or commodities reportable under 8 or 9.B. Designate valuation of such collateral and state separately amounts adequately collateralized by "exempted securities."

QUESTION 4—OTHER OPEN ITEMS WITH BROKERS AND DEALERS

State separately totals of ledger debit balances; ledger credit balances; long security valuations; short security valuations, and classify as follows:

- A. Securities borrowed (i.e., amount to be received from others upon return to them of securities borrowed by respondent).
- B. Securities failed to deliver (i.e., amount to be received from brokers and dealers upon delivery of securities sold by respondent).
- C. Securities loaned (i.e., amount to be paid to others upon return of securities loaned by respondent):
 1. Customers' securities.
 2. Securities reportable under 8 or 9.B.
 3. Securities reportable under 9.A., 10, 11, and 12.
- D. Securities failed to receive (i.e., amount to be paid to brokers and dealers upon receipt of securities purchased by respondent):
 1. For customers.
 2. For accounts reportable under 8 or 9.B.
 3. For accounts reportable under 9.A., 10, 11, and 12:
 - a. Sold at date of report.
 - b. Unsold at date of report.

NOTES:

1. Where it is impractical or unduly expensive to allocate all securities loaned and all securities failed to receive to each category in C and D, proper allocation shall be made to the extent feasible and all other such credit balances and short security valuations shall be reported under C.1. and/or D.1., respectively.
2. State separately or in a footnote, ledger debit balances; ledger credit balances; long security valuations; short security valuations, with respect to each security transaction outstanding 30 days or longer under Question 4.B., Securities Failed to Deliver, and Question 4.D., Securities Failed to Receive.

QUESTION 5—VALUATIONS OF SECURITIES AND SPOT (CASH) COMMODITIES IN BOX, TRANSFER AND TRANSIT

State separately the total valuation of:

- A. Negotiable securities in box, transfer, and in transit between offices of respondent.
- B. Spot (cash) commodities represented by warehouse receipts or bills of lading in box and in transit between offices of respondent.

NOTE: Question 5 requires entries in short valuation column only.

QUESTION 6—CUSTOMERS' SECURITY ACCOUNTS

State separately totals of ledger debit balances; ledger credit balances; long security valuations; short security valuations, and classify as follows:

- A. Bona fide cash accounts (i.e., accounts having both unsettled money balances and positions in securities which are current items within the meaning of Section 4(c) of Regulation T [12 CFR 220.4(c)] of the Board of Governors of the Federal Reserve System):

1. Accounts with debit balances.
2. Accounts with credit balances.
- B. Secured accounts:
 1. Accounts with debit balances.
 2. Accounts with credit balances.
- C. Partly secured accounts (accounts liquidating to a deficit):
 1. Accounts with debit balances.
 2. Accounts with credit balances.
- D. Unsecured accounts.
- E. Accounts with credit balances having open contractual commitments.
- F. Accounts with free credit balances.
- G. Fully paid securities not segregated.

NOTES:

1. Cash accounts which are not "bona fide cash accounts" shall be reported under B, C, or D, as appropriate.
2. Do not combine the accounts of customers except as permitted by General Instruction B.6.
3. Each joint account carried by respondent in which respondent has an interest shall be so stated, separately, as a customer's account in the proper classification and the status of the respondent's interest therein shall be stated. Funds received by respondent as margin in these accounts shall be separately stated by account. If any funds have been provided by the respondent as margin, these shall be clearly indicated here and in the answer to Question 13.
4. With respect to contractual commitments state as a footnote or in a separate schedule the total of:
 - a. Deficits in the accounts of the respective customers reported in the answers to B and/or E after application of net losses in open contractual commitments in securities carried for each such customer.
 - b. Net losses in open contractual commitments in securities carried for each customer whose account is reported in the answers to C or D.

In computing net losses, gains at market and profits on such sales may be applied against losses only in the same security in each customer's account.

5. See General Instruction B.11 for definition of the term "contractual commitments."

QUESTION 7—CUSTOMERS' COMMODITY ACCOUNTS

State separately totals of ledger debit balances; ledger credit balances; spot (cash) commodity valuations; net losses and net gains in future commodity contracts, and classify as follows:

- A. Accounts with open future contracts liquidating to an equity:
 1. Regulated commodities.
 2. Nonregulated commodities.
- B. Accounts with open future contracts liquidating to a deficit:
 1. Regulated commodities.
 2. Nonregulated commodities.
- C. Accounts with spot (cash) commodity positions:
 1. Hedged:
 - a. Secured.
 - b. Partly secured.
 2. Not hedged:
 - a. Secured.
 - b. Partly secured.
 3. Unsecured debit balance.
- D. Accounts with free credit balances:
 1. Regulated.
 2. Nonregulated.

NOTE: See notes 2 and 3 to Question 6.

QUESTION 8—ACCOUNTS OF OFFICERS AND DIRECTORS

State separately, in accordance with the applicable classifications and instructions of Questions 6 and 7, totals of ledger debit balances; ledger credit balances; long security and spot (cash) commodity valuations; short

security and spot (cash) commodity valuations; net losses and net gains in future commodity contracts in the accounts of:

- A. Officers.
- B. Directors.

NOTE: If an individual is both an officer and a director, classify the accounts under 8.A.

QUESTION 9—GENERAL PARTNERS' INDIVIDUAL ACCOUNTS

State separately totals of ledger debit balances; ledger credit balances; long security and spot (cash) commodity valuations; short security and spot (cash) commodity valuations; net losses and net gains in future commodity contracts, and classify as follows:

- A. Individual accounts of general partners who have signed specific agreements that cash, securities, commodities, and equities recorded in these accounts are to be included as partnership property.
- B. All other accounts of general partners. (These accounts shall be classified in accordance with the applicable classifications and instructions of Questions 6 and 7.)

NOTES:

1. Total valuations of "exempted securities" reported in answer to Question 9.A. shall be stated separately.
2. The noncapital accounts of partners other than general partners shall be included either with customers' accounts in the appropriate classifications of Questions 6 and 7 or, where applicable, in Question 12.

QUESTION 10—TRADING AND INVESTMENT ACCOUNTS OF RESPONDENT

State separately totals of ledger debit balances; ledger credit balances; long security and spot (cash) commodity valuations; short security and spot (cash) commodity valuations; net losses and net gains in future commodity contracts, and classify as follows:

- A. Securities accounts:
 1. Exempted securities.
 2. Other securities.
- B. Commodities accounts:
 1. Future commodities contracts.
 2. Spot (cash) commodities:
 - a. Hedged.
 - b. Not hedged.
 3. Other.

NOTES:

1. Ledger balances may be combined with respect to all security accounts, and also with respect to all spot (cash) commodity accounts.
2. Treasury stock of respondent shall not be included hereunder.
3. In the case of a sole proprietor, see General Instruction B.9.

QUESTION 11—CAPITAL ACCOUNTS

State separately totals of ledger debit balances; ledger credit balances; long security and spot (cash) commodity valuations, short security and spot (cash) commodity valuations, and classify as follows:

- A. Sole proprietorship:
 1. Capital account.
 2. Undistributed profit and loss accounts, including balances remaining in income and expense accounts. (This question may be answered by giving one net amount.)
- B. Partnership:
 1. Capital accounts of general partners.
 2. Capital accounts of special or limited partners.
 3. Undistributed profit and loss accounts, including balance remaining in income and expense accounts. (This question may be answered by giving one net amount.)
- C. Corporation or similar entity:
 1. Capital stock (detail by class of stock showing number of shares and par value):
 - a. Authorized (state parenthetically).
 - b. Issued.

- c. Treasury stock.
- 2. Capital surplus.
- 3. Earned surplus or deficit, including balances remaining in income and expense accounts. (This question may be answered by giving one net amount.)

D. Capital reserves. (State nature and amount of each reserve. Valuation reserves and liability reserves shall be reported in answer to Question 13.)

NOTE: Total valuations of "exempted securities" shall be stated separately.

QUESTION 12—SUBORDINATED ACCOUNTS

State separately for all accounts covered by "satisfactory subordination agreements," totals of ledger debit balances; ledger credit balances; long security and spot (cash) commodity valuations; short security and spot (cash) commodity valuations; net losses and net gains in future commodity contracts, and classify as follows:

- A. Subordinated accounts:
 - 1. Accounts with debit balances.
 - 2. Accounts with credit balances.
- B. Subordinated borrowings.

NOTES:

- 1. Total valuations of "exempted securities" shall be stated separately.
- 2. Any subordinated account reported under this question must be subject to an agreement which complies with the requirements of Rule 15c3-1(c)(7) [17 CFR 240.15c3-1(c)(7)] or, if the respondent is a member of an exchange whose members are exempt from Rule 15c3-1 [17 CFR 240.15c3-1] by subparagraph (b)(2) thereof, complies with the rules regarding subordination agreements of all the exchanges therein listed of which respondent is a member. Subordinated accounts with agreements that do not comply with the above requirements must be reported in the answers to Questions 2 through 9, as appropriate.

QUESTION 13—OTHER ACCOUNTS, ETC.

State details (ledger balances; valuations of securities and spot (cash) commodities; status of future commodity positions; and any other relevant information) of any accounts which have not been included in one of the answers to the above questions. These shall include: accounts for exchange memberships; furniture, fixtures, and other fixed assets; valuation reserves; funds provided or deposited by the respondent as margin in joint accounts; revenue stamps; dividends receivable, payable, and unclaimed; floor brokerage receivable and payable; commissions receivable and payable; advances to salesmen and other employees; commodity difference account; goodwill; organization expense; prepaid expenses and deferred charges; liability reserves; mortgage payable; other liabilities and deferred credits; market value of securities borrowed (other than for delivery against customers' sales) to the extent to which no equivalent value is paid or credited; and other accounts not specifically mentioned herein.

NOTE: Any liability reported under this question secured by collateral in any form shall be identified by reference to the related collateral.

The responses to Questions 14, 15, and 16 shall not be included in the totals.

QUESTION 14—CONTRACTUAL COMMITMENTS THAT ARE NOT RECORDED IN A LEDGER ACCOUNT FOR MONEY

State separately for each type of commitment total cost; total proceeds; valuation of net long and/or short position for the following:

- A. Respondent (see notes 2 and 3).
- B. General partners who have signed specific agreements that cash, securities, commodities and equities recorded in these

accounts are to be included as partnership property.

C. Subordinated accounts.

D. Other general partners, officers and/or directors:

1. Accounts not fully secured (including unsecured accounts).

2. Commitments which are substantial in view of the capital of the respondent.

E. Customers:

1. Accounts not fully secured (including unsecured accounts).

2. Commitments which are substantial in view of the capital of the respondent.

NOTES:

- 1. See General Instruction B.11 for definition of term "contractual commitments."
- 2. As to underwriting commitments, the amounts reported shall represent the respondent's interest in the entire account.
- 3. Related good faith deposits shall be clearly indicated; the total thereof shall be included in the amount reported in answer to Question 1.
- 4. The details required by Part II(a) may be reported herein.

QUESTION 15—PARTICIPATIONS OF THE RESPONDENT IN JOINT TRADING AND INVESTMENT ACCOUNTS CARRIED BY OTHERS THAT ARE NOT RECORDED IN A LEDGER ACCOUNT FOR MONEY

State separately for each joint account (1) the account balance, exclusive of deposits; (2) the total market valuations of long securities, short securities, and commodities; and (3) the respondent's share of such account balance and each such market valuation. Any related deposits reported in answer to Question 13 shall be clearly indicated hereunder.

QUESTION 16—UNRECORDED ASSETS, LIABILITIES AND ACCOUNTABILITIES

Submit a separate schedule containing a description of any assets, liabilities and accountabilities of the respondent, actual or contingent, which are not included in a ledger account or reported in answer to Questions 14 and 15. Only such items which in the aggregate are material in relation to net capital need be reported. Accountabilities shall include cash and/or other property including securities held for customers by or on behalf of respondent, which are not included in a ledger account. Contingent liabilities may include lawsuits pending against the respondent, accommodation endorsements, rediscounted notes, and guarantees of accounts of others.

(d) Part II—Supplementary information.

Submit the following information:

(a) Separate schedules giving adequate description including quantity, price, and valuation of each security and commodity position supporting each total valuation reported in answer to the following:

Questions 6 and 7—Joint accounts in which respondent has an interest.

Questions 8.C., 7.C.1.b., and 7.C.2.b.—Customers' partly secured accounts.

Question 8.—Partly secured accounts of officers and directors.

Question 9.A.—Individual accounts of general partners who have signed specific agreements that cash, securities, commodities, and equities recorded in these accounts are to be included as partnership property.

Question 9.B.—Partly secured accounts of partners reported in response hereto.

Question 10.—Trading and investment accounts of respondent.

Question 11.—Capital accounts.

Question 12.—Subordinated accounts and borrowings.

The schedule shall show with respect to each borrowing or claim the name of the lender, the relationship to respondent, the amount of the borrowing or claim and the maturity date of the agreement.

Question 14.—Contractual commitments that are not recorded in a ledger account for money reported in answer to Questions 14.A., 14.B., 14.C., 14.D.1., and 14.E.1., Part I.

In addition to the details of securities and commodities positions, report the total cost and total proceeds for each security and commodity; the totals thereof shall agree with the amounts reported in answer to Question 14, Part I.

Where contractual commitments exist in puts or calls, or any combination thereof, the details shall include separately with respect to puts or calls in each separate security of the same class: quantity, description of security, expiration date or range of expiration dates, indicated contract costs or proceeds, market valuation and indicated unrealized profit or loss. This information shall be reported in separate columns, classified separately and grouped as puts or calls.

Where contractual commitments are related to positions in other securities reflected in the answers to questions in Part I such relationship shall be clearly described.

The above information may be reported in Part II(a) or in the answer to Question 14, Part I.

Question 15.—Participations of the respondent in joint trading and investment accounts carried by others that are not recorded in a ledger account for money.

NOTES:

1. "Exempted securities" and "securities not readily marketable" shall be stated separately.

2. If the respondent is not exempt from the provisions of Rule 15c3-1 [17 CFR 240.15c3-1] but desires that, where allowed, greater than 70 percent of the market valuation of certain securities be included in the computation of net capital under that rule, such securities shall either be listed by groups in accordance with the classifications of Rule 15c3-1(c)(2)(C) [17 CFR 240.15c3-1(c)(2)(III)] or the applicable percentages allowable under that rule shall be stated with respect to each security and a summary of valuations by such percentages shall be given.

(b) A schedule showing in detail ledger balances, valuations of long and short securities and spot (cash) commodities, and net losses and net gains in future commodity contracts and other open contractual commitments (other than those reported in the answers to Part I of this Form) in any accounts carried by other brokerage houses in which a sole proprietor or any general partner of the respondent has an interest. (Accounts containing only free securities or free credit balances need not be reported.)

(c) (i) A separate schedule showing the market value of all long and all short future commodity contracts in each account other than customers' commodity accounts reported in answer to all Questions in Part I of this Form (contracts representing spreads or straddles in the same commodity and those contracts effecting or hedging any "spot" commodity positions, and accounts of general partners, officers or directors not subject to percentage deduction [Rule 15c3-1(c)(2)(D)] [17 CFR 240.15c3-1(c)(2)(iv)] shall be so designated).

(ii) A separate schedule showing the market value of all customers' long and all customers' short future contracts in each commodity reported in answer to all questions in Part I of this Form.

(d) If the answer to Question 11 includes amounts authorized or proposed to be dis-

tributed or withdrawn within the next 6 months, furnish the details.

(e) If respondent is a sole proprietor, state whether any liabilities which are not reflected in the answers to Part I of this Form would materially affect net worth as reported; if such liabilities would materially affect net worth as reported, the statement required by Item 7 of the Audit Requirements shall be furnished as a schedule.

(f) If the respondent has met the conditions specified in subparagraph (a) (2) of Rule 15c3-1 [17 CFR 240.15c3-1] throughout the year and desires that the lower net capital requirements apply, a specific statement to that effect shall be furnished as a schedule.

(e) Audit requirements.

The audit shall be made in accordance with generally accepted auditing standards and shall include a review of the accounting system, the internal accounting control and procedures for safeguarding securities including appropriate tests thereof for the period since the prior examination date. It shall include all procedures necessary under the circumstances to substantiate the assets and liabilities and securities and commodities positions as of the date of the responses to the financial questionnaire and to permit the expression of an opinion by the independent public accountant as to the financial condition of the respondent at that date. Based upon such audit, the accountant shall comment upon any material inadequacies found to exist in the accounting system, the internal accounting control and procedures for safeguarding securities, and shall indicate any corrective action taken or proposed. These comments may be submitted in a supplementary certificate and filed pursuant to Rule 17a-5(b)(3) [17 CFR 240.17a-5(b)(3)].

The scope of the audit shall include the following procedures, but nothing herein shall be construed as limiting the audit or permitting the omission of any additional audit procedure which an independent public accountant would deem necessary under the circumstances. As of the audit date the independent public accountant shall:

(1) Compare ledger accounts with the trial balances obtained from the general and private ledgers and prove the aggregates of subsidiary ledgers with their respective controlling accounts.

(2) Account for by physical examination and comparison with the books and records: all securities, including those held in segregation and safekeeping; material amounts of currency and tax stamps; warehouse receipts; and other assets on hand, in vault, in box or otherwise in physical possession. Control shall be maintained over such assets during the course of the physical examination and comparison.

(3) Verify securities in transfer and in transit between offices of respondent.

(4) Balance positions in all securities and spot and future commodities as shown by the books and records at the audit date.

(5) Reconcile balances shown by bank statements with cash accounts. After giving ample time for clearance of outstanding checks and transfers of funds, the independent public accountant shall obtain from depositaries bank statements and canceled checks of the accounts and by appropriate audit procedures substantiate the reconciliation as of the audit date.

(6) Obtain written confirmations with respect to the following (see-note):

(a) Bank balances and other deposits.

(b) Open contractual positions and deposits of funds with clearing corporations and associations.

(c) Money borrowed and detail of collateral.

(d) Accounts, securities, commodities, and commitments carried for the respondent by others.

(e) Details of:

(i) Securities borrowed.

(ii) Securities loaned.

(iii) Securities failed to deliver.

(iv) Securities failed to receive.

(v) Contractual commitments (see General Instruction B.11).

(f) Customers', partners', officers', directors', and respondent's accounts. Confirmation of these accounts may be in the form of a written acknowledgment of the accuracy of the statement of money balances, securities and/or commodities positions, and open contractual commitments (other than uncleared "regular way" purchases and sales of securities) accompanying the first request for confirmation mailed by the independent public accountant. Customers' accounts without balances, position or commitments, and accounts closed since the last prior audit shall be confirmed on a test basis.

(g) Borrowings and accounts covered by "satisfactory subordination agreements."

(h) Guarantees in cases where required to protect accounts guaranteed as of audit date.

(i) All other accounts which in the opinion of the independent public accountant should be confirmed.

NOTE: Compliance with requirements for obtaining written confirmation with respect to the above accounts shall be deemed to have been made if requests for confirmation have been mailed by the independent public accountant in an envelope bearing his own return address and second requests are similarly mailed to those not replying to the first requests, together with such auditing procedures as may be necessary: *Provided, however,* That with respect to customers' accounts closed since the last prior audit the accountant may use either positive or negative confirmation requests; and it is further provided that with respect to periodic investment plans sponsored by member firms of a national securities exchange, whose members are exempted from Rule 15c3-1 by paragraph (b) (2) [17 CFR 240.15c3-1(b)(2)], thereof, the independent public accountant examining the financial statements of the originating member firm may omit direct written confirmation of such plan accounts with customers when, in his judgment, such procedures are not necessary, if (1) the originating member firm does not receive or hold securities belonging to such plan accounts and does not receive or hold funds for such accounts, except the initial payment which is promptly transmitted to the custodian; (2) the custodian is a member firm of such national securities exchange and files certified reports complying with Rule 17a-5 [17 CFR 240.17a-5] in connection with which the customers' accounts are confirmed by an independent public accountant; and (3) funds and securities held by the custodian for each such customer's account are reconciled with the records of the originating member firm as of the date of the most recent audit of the custodian.

(7) Obtain a written statement from the proprietor, partner (if a partnership) or officer (if a corporation) as to the assets, liabilities, and accountabilities, contingent or otherwise, not recorded on the books of the respondent.

(8) Verify the computation of the ratio of aggregate indebtedness to net capital at the audit date and review the procedures followed in making the periodic computations required under the provisions of Rule 17a-3(a)(11) [17 CFR 240.17a-3(a)(11)].

NOTE: Provisions of Rule 17a-5 require that the reports of certain brokers and dealers be audited by a certified public accountant or public accountant who shall be in fact inde-

pendent. With respect to qualifications of accountants, accountant's certificate, opinions to be expressed, and exceptions, please refer to Rule 17a-5 [17 CFR 240.17a-5].

(Secs. 3(b), 17(a), 23(a), 48 Stat. 884, 897, 901, as amended; secs. 4, 8, 49 Stat. 1379; sec. 5, 52 Stat. 1076; 15 U.S.C. 78c(b), 78q(a), 78w(a))

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

OCTOBER 3, 1967.

[F.R. Doc. 67-11910; Filed, Oct. 9, 1967; 8:47 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Phorate; Tolerances for Residues

A petition (PP 7F0521) was filed by the American Cyanamid Co., Post Office Box 400, Princeton, N.J. 08540, requesting establishment of tolerances for residues of the insecticide phorate (O,O-diethyl S-(ethylthio)methyl phosphorodithioate) in or on raw agricultural commodities as follows: 0.5 part per million in or on alfalfa and potatoes; 0.2 part per million in or on corn; and 0.05 part per million in or on lettuce, milo, peanuts, and rice.

Subsequently, the petition was amended changing the requested tolerances for residues in or on raw agricultural commodities to the following: 0.5 part per million in or on corn forage and potatoes; and 0.1 part per million in or on corn grain (field and sweet), lettuce, peanuts, and rice. Thereafter, the requested tolerance regarding potatoes was withdrawn.

Data in the petition show that in addition to the parent compound, toxic residues on the raw agricultural commodities include its cholinesterase-inhibiting metabolites.

The Secretary of Agriculture has certified that this insecticide is useful for the purposes for which the tolerances are being established.

Based on consideration given the data submitted in the petition, and other relevant material, the Commissioner of Food and Drugs concludes that the tolerances established by this order will protect the public health, and also concludes that residues of the cholinesterase-inhibiting metabolites of phorate may be present as a component of phorate residues. The latter conclusion applies to the tolerances already established as well as those added by this order.

Therefore, by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d) (2), 68 Stat. 512; 21 U.S.C. 346a(d) (2)) and delegated by him to the Commissioner (21 CFR 2.120), Part 120 is amended as follows:

1. Section 120.3(e) (5) is amended by revising the item "Phorate * * *" to read as follows:

§ 120.3 Tolerances for related pesticide chemicals.

* * * * *

(e) * * *

(5) * * *

Phorate (O,O-diethyl S-(ethylthio)methyl phosphorodithioate) and its cholinesterase-inhibiting metabolites.

2. Section 120.206 is revised to read as follows:

§ 120.206 Phorate; tolerances for residues.

Tolerances are established for residues of phorate (O,O-diethyl S-(ethylthio)methyl phosphorodithioate), and its cholinesterase-inhibiting metabolites, in or on raw agricultural commodities as follows:

- 3 parts per million in or on sugarbeet tops.
- 0.5 part per million in or on corn forage.
- 0.3 part per million in or on sugarbeet roots.
- 0.1 part per million in or on corn grain, sweet corn (kernels plus cob with husk removed), lettuce, peanuts, rice.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 408(d) (2), 68 Stat. 512; 21 U.S.C. 346a(d) (2))

Dated: September 29, 1967.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 67-11921; Filed, Oct. 9, 1967; 8:43 a.m.]

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Diquat; Tolerances for Residues

A petition was filed (FP 7F0594) with the Food and Drug Administration by the Chevron Chemical Co., Richmond, Calif. 94801, proposing the establishment of a tolerance of 0.05 part per million for negligible residues of the plant regulator diquat (6,7-dihydrodipyrido (1,2-a: 2',1'-c) pyrazidinium), derived from application of the dibromide salt and calculated as the cation, in or on the raw agricultural commodity sugarcane.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purpose for which the tolerance is being established.

Based on consideration given the data submitted in the petition, and other relevant material, the Commissioner of Food and Drugs concludes that the tolerance established by this order will protect the public health. Therefore, by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d) (2), 68 Stat. 512; 21 U.S.C. 346a(d) (2)) and delegated by him to the Commissioner (21 CFR 2.120), Part 120 is amended by adding to Subpart C a new section as follows:

§ 120.226 Diquat; tolerances for residues.

A tolerance of 0.05 part per million is established for negligible residues of the plant regulator diquat (6,7-dihydrodipyrido (1,2-a:2',1'-c) pyrazidinium), derived from application of the dibromide salt and calculated as the cation, in or on the raw agricultural commodity sugarcane.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 408(d) (2), 68 Stat. 512; 21 U.S.C. 346a(d) (2))

Dated: September 29, 1967.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 67-11920; Filed, Oct. 9, 1967; 8:43 a.m.]

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

HEMICELLULOSE EXTRACT

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by Masonite Corp., 29 North Wacker Drive, Chicago, Ill. 60606, and other relevant material, has concluded that § 121.275, the food additive regulation that provides for the safe use of hemicellulose extract as a source of metabolizable energy in animal feed, should be amended to (1) delete the Brix specification and add prescribed carbohydrate minimums, (2) delete the feeding limitation "not to exceed 10 percent of the total diet," and (3) delete the labeling requirement that adequate directions for use include "suggested feeding levels for various species."

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c) (1), 72 Stat. 1726; 21 U.S.C. 343(c) (1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.275 is amended by deleting paragraph (d) and by revising paragraphs (b) and (c) to read as follows:

§ 121.275 Hemicellulose extract.

(b) The additive may be used in a liquid or dry state with the liquid product containing not less than 55 percent carbohydrate and the dry product containing not less than 84 percent carbohydrate.

(c) The additive is used as a source of metabolizable energy in animal feed in accordance with good manufacturing and feeding practices.

(d) [Deleted]

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the

objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: September 29, 1967.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 67-11922; Filed, Oct. 9, 1967;
8:48 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

POLYETHYLENE GLYCOL 400

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 3A0918) filed by Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, N.Y. 10017, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of polyethylene glycol 400 as a dispersing adjuvant for fat-soluble vitamins in vitamin and vitamin-mineral preparations. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.1185 is revised to read as follows:

§ 121.1185 Polyethylene glycol 400.

(a) Polyethylene glycol 400 complying with the definition and specifications prescribed in the U.S.P. XVII, except that the additive shall contain not in excess of a combined total of 0.2 percent of ethylene and diethylene glycols, may be safely used as a dispersing adjuvant for fat-soluble vitamins in vitamin and vitamin-mineral preparations other than those preparations intended for the addition to milk, at a level not greater than that required to accomplish the intended physical or technical effect.

(b) A tolerance of zero is established for residues of polyethylene glycol 400 in milk.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the

hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: September 29, 1967.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 67-11924; Filed, Oct. 9, 1967;
8:48 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

POLYMER MODIFIERS IN SEMIRIGID AND RIGID POLYVINYL CHLORIDE PLASTICS

The Commissioner of Food and Drugs, having evaluated the data in petitions filed by Kureha Chemical Industry Co., Ltd., 245 Park Avenue, New York, N.Y. 10017 (FAP 7B2125); Monsanto Co., Hydrocarbons and Polymers Division, 730 Worcester Street, Indian Orchard, Mass. 01105 (FAP 7B2186); Rohm and Haas Co., Independence Mall West, Philadelphia, Pa. 19105 (FAP 7B2187); and other relevant material, has concluded that § 121.2597 of the food additive regulations should be revised to provide for the safe use of polyvinyl chloride modifiers produced by combining butadiene-styrene copolymers with acrylic polymers during polymerization of the acrylic polymers. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.2597 is revised to read as follows:

§ 121.2597 Polymer modifiers in semi-rigid and rigid polyvinyl chloride plastics.

The polymers identified in paragraph (a) of this section may be safely admixed, alone or in mixture with other permitted polymers, as modifiers in semi-rigid and rigid polyvinyl chloride plastic articles intended for use in contact with food, in accordance with the following prescribed conditions:

(a) For the purpose of this section, the polymer modifiers are identified as follows:

(1) Acrylic polymers identified in this subparagraph provided that such polymers contain at least 50 weight-percent of polymer units derived from one or more of the monomers listed in subdivision (i) of this subparagraph.

(i) Homopolymers and copolymers of the following monomers:

n-Butyl acrylate.
n-Butyl methacrylate.
Ethyl acrylate.
Methyl methacrylate.

(ii) Copolymers produced by copolymerizing one or more of the monomers listed in subdivision (i) of this subparagraph with one or more of the following monomers:

Acrylonitrile.
Butadiene.
Styrene.
Vinylidene chloride.

(iii) Polymers identified in subdivisions (i) and (ii) of this subparagraph containing no more than 5 weight-percent of total polymer units derived by copolymerization with one or more of the following monomers:

Acrylic acid.
1,3-Butylene glycol dimethacrylate.
Divinylbenzene.
Methacrylic acid.

(iv) Mixtures of polymers identified in subdivisions (i), (ii), and (iii) of this subparagraph; provided that no chemical reactions, other than addition reactions, occur when they are mixed.

(2) Polymers identified in subparagraph (1) of this paragraph combined during their polymerization with butadiene-styrene copolymers; provided that no chemical reactions, other than addition reactions, occur when they are combined. Such combined polymers may contain 50 weight-percent or more of total polymer units derived from the butadiene-styrene copolymers.

(b) The polymer content of the finished plastic food-contact article consists of:

(1) Not less than 80 weight-percent of polymer units derived from vinyl chloride and not more than 5 weight-percent of polymer units derived from polymers identified in paragraph (a)(1) of this section and may optionally contain up to 15 weight-percent of polymer units derived from butadiene-styrene copolymers; or

(2) Not less than 50 weight-percent of polymer units derived from vinyl chloride and not more than 50 weight-percent of polymer units derived from homopolymers and/or copolymers of ethyl acrylate and methyl methacrylate and may optionally contain up to 15 weight-percent of polymer units derived from butadiene-styrene copolymers.

(c) No chemical reactions other than addition reactions, occur among the polymers identified in paragraph (a) of this section, the polyvinyl chloride, and any other permitted modifying polymers present in the polymer mixture used in the manufacture of the finished plastic food-contact article.

(d) The finished plastic food-contact article, when extracted with the solvent or solvents characterizing the type of food and under the conditions of time and temperature characterizing the conditions of its intended use as determined from Tables 1 and 2 of § 121.2526(c), yields extractives not to exceed the limits prescribed in § 121.2591(b)(1), (2), (3), and (4) when tested by the methods prescribed in § 121.2591(c).

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c) (1), 72 Stat. 1786; 21 U.S.C. 348 (c) (1))

Dated: September 29, 1967.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 67-11923; Filed, Oct. 9, 1967;
8:48 a.m.]

SUBCHAPTER D—HAZARDOUS SUBSTANCES

PART 191—HAZARDOUS SUBSTANCES; DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

Viscous Products Containing Methyl Alcohol; Exemption From Certain Requirements

The Commissioner of Food and Drugs has received requests, submitted pursuant to section 3(c) of the Federal Hazardous Substances Act and § 191.62 of the regulations thereunder, to exempt viscous products, such as adhesives and asphalt-base roof and tank coatings, from the special labeling required because of their methyl alcohol content. These products contain, among other ingredients, more than 4 percent by weight methyl alcohol, and under § 191.7(b) (2) of the regulations, special warning labeling is required based on the history of use of methyl alcohol products as a beverage.

Based on data supplied by the petitioners and developed by independent investigations, the Commissioner concludes that no reasonably foreseeable hazard by ingestion of these products exists and, therefore, compliance with § 191.7(b) (2) is unnecessary for these products for the adequate protection of the public health and safety.

Accordingly, pursuant to the provisions of the Act (sec. 3(c), 74 Stat. 374; 15 U.S.C. 1262) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 191.63(a) is

amended by adding thereto a new subparagraph, as follows:

§ 191.63 Exemptions for small packages, minor hazards, and special circumstances.

(a) . . .

(34) Viscous products containing more than 4 percent by weight of methyl alcohol, such as adhesives, asphalt-base roof and tank coatings, and similar products, are exempt from bearing the special labeling that would otherwise be required by § 191.7(b) (2), provided that:

(i) The product contains not more than 15 percent by weight of methyl alcohol.

(ii) The methyl alcohol does not separate from the other ingredients upon standing or through any foreseeable use or manipulation.

(iii) The viscosity of the product is not less than 7,000 centipoises at 77° F.

(iv) Labeling bears the statement "Contains methyl alcohol—use only in well-ventilated area—keep out of the reach of children."

Notice and public procedure and delayed effective date are unnecessary prerequisites to the promulgation of this order, and I so find, since the Federal Hazardous Substances Act contemplates such modification of labeling requirements under certain conditions.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 3(c), 74 Stat. 374; 15 U.S.C. 1262)

Dated: October 2, 1967.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 67-11925; Filed, Oct. 9, 1967;
8:49 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6931]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Investment Credit Provisions

On January 7, 1965, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under sections 38, 46, 47, and 48 of the Internal Revenue Code of 1954 to conform such regulations to certain provisions of section 2 of the Revenue Act of 1962 (76 Stat. 962), relating to credit for investment in certain depreciable property, was published in the FEDERAL REGISTER (30 F.R. 143). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Section 1.46-3 is amended by revising paragraph (e) (3), by revising subparagraph (2) (i) of, and adding subparagraph (2) (iii) to, paragraph (f), and by revising paragraph (h) (1).

PAN. 2. Section 1.47-1, as set forth in paragraph 4 of the notice of proposed rule making, is changed by revising paragraph (a) (1) (ii) (2) and paragraph (b) (3) (ii), and by revising subparagraphs (2), (3), and (4) of, and adding subparagraph (1) (iii) to, paragraph (e).

PAN. 3. Section 1.47-2, as set forth in paragraph 4 of the notice of proposed rule making, is changed by revising Example 2 of paragraph (a) (2) (iii), by revising subparagraph (2) (iv) of paragraph (b), by revising subparagraph (1) of paragraph (c), and by revising paragraph (d).

PAN. 4. Section 1.47-3, as set forth in paragraph 4 of the notice of proposed rule making is changed by revising subparagraphs (1) (ii), (2), and (5) of paragraph (f), by revising the introductory material preceding the examples in paragraph (f) (6), and by adding a new example (5) to paragraph (f) (6).

PAN. 5. Section 1.47-4, as set forth in paragraph 4 of the notice of proposed rule making, is changed by revising subparagraph (1) of, and adding a new subparagraph (2) (iii) to, paragraph (a), by revising paragraph (b), and by adding a new paragraph (d).

PAN. 6. Section 1.47-5, as set forth in paragraph 4 of the notice of proposed rule making, is changed by revising paragraph (a) (2).

PAN. 7. Section 1.47-6, as set forth in paragraph 4 of the notice of proposed rule making, is changed by adding a new subdivision (iii) to paragraph (a) (2).

PAN. 8. Section 1.48-3 is amended by revising paragraph (d).

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

Approved: October 2, 1967.

STANLEY S. SURREY,
Assistant Secretary
of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 38, 46, 47 and 48 of the Internal Revenue Code of 1954 to certain provisions of section 2 of the Revenue Act of 1962 (76 Stat. 962), such regulations are amended as follows:

PARAGRAPH 1(a). There is inserted immediately after § 1.33 the following new section:

§ 1.33-1 Investment in certain depreciable property.

Sections 1.46-1 through 1.48-7, inclusive, are prescribed under the authority granted the Secretary or his delegate by section 38(b) of the Code to prescribe such regulations as may be necessary to carry out the purposes of section 38 and subpart B, part IV, subchapter A, chapter 1 of the Code.

(b). Section 1.46-1 is amended by revising paragraph (a) to read as follows:

§ 1.46-1 Determination of amount.

(a) *In general.* Except as otherwise provided in this section and in § 1.46-2, the amount of the credit allowed by section 38 for the taxable year is equal to 7 percent of the taxpayer's qualified investment for such year (as determined under § 1.46-3). The amount equal to 7 percent of qualified investment shall be referred to in this section and §§ 1.46-2 through 1.48-7 as the "credit earned".

PAR. 2. Section 1.46-2 is amended by revising subparagraph (1) of paragraph (a) to read as follows:

§ 1.46-2 Carryback and carryover of unused credit.

(a) *Allowance of unused credit as carryback or carryover.* (1) Section 46 (b) (1) provides for a 3-year carryback and a 5-year carryover of any unused credit. An unused credit is the excess of the credit earned for the taxable year (as defined in paragraph (a) of § 1.46-1) over the limitation based on amount of tax for such taxable year (as determined under paragraph (b) of § 1.46-1). Subject to the limitation contained in paragraph (b) of this section, an unused credit shall be added to the amount allowable as a credit under section 38 for the years to which the unused credit can be carried. The year with respect to which an unused credit arises shall be referred to in this section as the "unused credit year". See § 1.47-1 for rules relating to reduction of an unused credit as a result of the application of section 47 (relating to certain dispositions, etc., of section 38 property).

PAR. 3. Section 1.46-3 is amended by revising paragraph (a) (2), by revising paragraph (c) (3), by revising paragraph (e) (3), by revising subparagraph (2) (i) of, and adding subparagraph (2) (iii) to, paragraph (f), and by inserting in lieu of "(h) [Reserved]", a new paragraph (h). These revised and added provisions read as follows:

§ 1.46-3 Qualified investment.

(a) *In general.* * * * (2) The basis (or cost) of section 38 property placed in service during a taxable year shall not be taken into account in determining qualified investment for such year if such property is disposed of or otherwise ceases to be section 38 property during such year, except where § 1.47-3 applies. Thus, if individual A places in service during a taxable year section 38 property and later in the same year sells such property, the basis (or cost) of such property shall not be taken into account in determining A's qualified investment. On the other hand, if A places in service section 38 property during a taxable year and dies later in the same year, the basis (or cost) of such property would be taken into account in computing qualified investment. Similarly, if section 38 property is destroyed by fire in the same year in which it is placed in service and paragraph (h) of this section applies to reduce the basis

(or cost) of replacement property, the basis (or cost) of the destroyed property would be taken into account in computing qualified investment. In order to determine whether section 38 property is disposed of or otherwise ceases to be section 38 property see § 1.47-2.

(c) *Basis or cost.* * * * (3) For reduction in the basis (or cost) of certain property which replaces other property which was destroyed or damaged by fire, storm, shipwreck, or other casualty, or which was stolen, see paragraph (h) of this section.

(e) *Estimated useful life.* * * * (3) *Individual useful life system.* (i) The taxpayer may assign an individual estimated useful life to each asset falling within a guideline class which is placed in service during the taxable year. With respect to the assets falling within the guideline class which are placed in single asset accounts for purposes of computing depreciation, the estimated useful life used for each asset for that purpose shall be used in determining qualified investment. With respect to the assets falling within the guideline class which are placed in multiple asset accounts (including a guideline class account described in Revenue Procedure 62-21) for which a group, classified, or composite rate is used in computing depreciation (or in single asset accounts for which an average life rate is used), the determination of estimated useful life for each asset in the account shall be made individually on the best estimate obtainable on the basis of all the facts and circumstances. The individual estimated useful lives used for all the assets placed in a multiple asset account, when viewed together, must be consistent with the group, classified, or composite life used for the account for purposes of computing depreciation.

(ii) In determining the individual estimated useful lives of assets similar in kind contained in a multiple asset account (or in single asset accounts for which an average life rate is used), the taxpayer may (a) assign to each of such assets the average useful life of such assets used for purposes of computing depreciation, or (b) assign separate lives to such assets based on the estimated range of years taken into consideration in establishing the average useful life. Thus, for example, if a taxpayer places nine similar trucks with an average estimated useful life of 7 years, based on an estimated range of 6 to 8 years (two trucks with a useful life of 6 years, five trucks with a useful life of 7 years, and two trucks with a useful life of 8 years), in a multiple asset account for which a group rate is used in computing depreciation, he may either assign a useful life of 6 years to two of the trucks, 7 years to five of the trucks, and 8 years to two of the trucks, or he may assign the average useful life of the trucks (7 years) to each of the nine trucks. Likewise, if a taxpayer places 100 similar telephone poles with an average useful life of 28 years, based on an estimated

range of 3 to 40 years (two with a useful life of less than 4 years, three with a useful life of 4 to 6 years, four with a useful life of 6 to 8 years, and 91 with a useful life of more than 8 years), in a multiple asset account for which a group rate is used in computing depreciation, he may either assign useful lives corresponding to the estimated range of years of the poles (i.e., a useful life of less than 4 years to two of the poles, etc.), or he may assign the average useful life of the poles (28 years) to each of the poles.

(iii) In the case of "mass assets" (as defined in paragraph (e) (4) of § 1.47-1) for which the taxpayer is permitted to use an appropriate mortality dispersion table (including a standard mortality dispersion table) under paragraph (c) (2) of § 1.47-1 (determined without regard to paragraph (e) (2) (ii) thereof), the taxpayer may use such table for purposes of determining estimated useful lives by assigning, under subdivision (ii) (b) of this subparagraph, separate lives to such assets based on the estimated range of years taken into consideration in establishing the average useful life. If a taxpayer uses a standard mortality dispersion table for any taxable year, such table must be used for all subsequent taxable years unless the taxpayer obtains the consent of the Commissioner to change.

(iv) For purposes of subdivision (ii) of this subparagraph, assets (other than "mass assets") shall not be considered as "similar in kind" in respect of other assets unless all such assets are substantially of the same value, nor shall used section 38 property be considered as "similar in kind" to new section 38 property

(f) *Partnerships.* * * * (2) *Determination of partner's share.* (i) Each partner's share of the basis (or cost) of any section 38 property shall be determined in accordance with the ratio in which the partners divide the general profits of the partnership (that is, the taxable income of the partnership as described in section 702(a) (9)) regardless of whether the partnership has a profit or a loss for its taxable year during which the section 38 property is placed in service. However, if the ratio in which the partners divide the general profits of the partnership changes during the taxable year of the partnership, the ratio effective for the date on which the property is placed in service shall apply.

(iii) Notwithstanding subdivisions (i) and (ii) of this subparagraph, if with respect to a partnership's taxable year the conditions set forth in (a) through (c) of this subdivision are satisfied with respect to a partner, then such partner shall not take into account the basis (or cost) of any section 38 property placed in service by the partnership during such taxable year. The conditions referred to in the preceding sentence are:

(a) Such partner's interest in the general profits of the partnership during the taxable year is 5 percent or less;

(b) Under the partnership agreement, such partner will retire from the partnership during the taxable year or within 8 years after the end of such year; and

(c) The partnership agreement provides that the basis (or cost) of section 38 property placed in service by the partnership during the taxable year shall not be taken into account by a partner described in (a) and (b) of this subdivision.

Any basis (or cost) of section 38 property which is not taken into account by a partner because of the provisions of this subdivision shall be taken into account by the other partners in accordance with subdivision (i) of this subparagraph.

(h) Certain replacement property. (1)

(i) If section 38 property is placed in service by the taxpayer to replace property (whether or not section 38 property) similar or related in service or use which was destroyed or damaged by fire, storm, shipwreck, or other casualty, or stolen, then for purposes of paragraph (a) of this section the basis (or cost) of the replacement section 38 property otherwise determined under paragraph (c) of this section shall be reduced by an amount equal to the lesser of—

(a) The amount of money, or the fair market value of other property, received as compensation, by insurance or otherwise, for the property which was destroyed, damaged, or stolen; or

(b) The adjusted basis of such destroyed, damaged, or stolen property (immediately before such destruction, damage, or theft).

(ii) For purposes of subdivision (i) of this subparagraph—

(a) Section 38 property placed in service after the due date (including extensions of time thereof) for filing the taxpayer's income tax return for the taxable year in which the other property was destroyed, damaged, or stolen shall not be considered as replacement section 38 property; and

(b) If the property which is destroyed, damaged, or stolen, is leased property, no other leased property shall be considered as replacement property with respect to the property destroyed, damaged, or stolen, in any case in which the lessor makes or made an election under section 48(d) (relating to election with respect to certain leased property) with respect to either the property destroyed, damaged, or stolen, the other leased property, or both.

(2) Subparagraph (1) of this paragraph shall not apply to replacement property if the reduction, under such subparagraph (1), in the basis (or cost) of such replacement property is less than the excess of—

(i) The qualified investment with respect to the destroyed, damaged, or stolen property, over

(ii) The recomputed qualified investment with respect to such property (determined under the principles of paragraph (a) of § 1.47-1).

(3) This paragraph may be illustrated by the following examples:

Examples (1). (i) A acquired and placed in service on January 1, 1962, machine No. 1, which qualified as section 38 property, with a basis of \$30,000 and an estimated useful life of 6 years. The amount of qualified investment with respect to such machine was \$20,000. On January 2, 1963, machine No. 1 is completely destroyed by fire. On January 1, 1963, the adjusted basis of such machine in A's hands is \$24,500. On November 1, 1963, A receives \$23,000 in insurance proceeds as compensation for the destroyed machine, and on December 15, 1963, A acquires and places in service machine No. 2, which qualifies as section 38 property, with a basis of \$41,000 and an estimated useful life of 6 years to replace machine No. 1.

(ii) Under subparagraph (1) of this paragraph, the \$41,000 basis of machine No. 2 is reduced, for purposes of paragraph (a) of this section, by \$23,000 (that is, the \$23,000 insurance proceeds since such amount is less than the \$24,500 adjusted basis of machine No. 1 immediately before it was destroyed) to \$18,000 since such reduction (that is, \$23,000) is greater than the \$20,000 reduction in qualified investment which would be made if paragraph (a) of § 1.47-1 were to apply to machine No. 1 (\$20,000 qualified investment less zero recomputed qualified investment).

Example (2). (i) The facts are the same as in example (1) except that on November 1, 1963, A receives only \$19,000 in insurance proceeds as compensation for the destroyed machine.

(ii) The \$41,000 basis of machine No. 2 is not reduced, for purposes of paragraph (a) of this section, under this paragraph since the \$19,000 reduction which would have been made under this paragraph had it applied (that is, the \$19,000 insurance proceeds since such amount is less than the \$24,500 adjusted basis of machine No. 1 immediately before it was destroyed) is less than the \$20,000 reduction in qualified investment which is made since paragraph (a) of § 1.47-1 applies to machine No. 1 (\$20,000 qualified investment less zero recomputed qualified investment).

PAR. 4. Section 1.47-1 is added to read as follows:

§ 1.47-1 Recomputation of credit allowed by section 38.

(a) **General rule—**(1) *In general.* (i) If during the taxable year any section 38 property the basis (or cost) of which was taken into account, under paragraph (a) of § 1.46-3, in computing the taxpayer's qualified investment is disposed of, or otherwise ceases to be section 38 property or becomes public utility property (as defined in paragraph (g) of § 1.46-3) with respect to the taxpayer, before the close of the estimated useful life (as determined under subparagraph (2) (i) of this paragraph) which was taken into account in computing such qualified investment, then the credit earned for the credit year (as defined in subdivision (ii) (a) of this subparagraph) shall be recomputed under the principles of paragraph (a) of § 1.46-1 and paragraph (a) of § 1.46-3 substituting, in lieu of the estimated useful life of the property that was taken into account originally in computing qualified investment, the actual useful life of the property as determined under subparagraph (2) (ii) of this para-

graph. There shall also be recomputed under the principles of §§ 1.46-1 and 1.46-2 the credit allowed for the credit year and for any other taxable year affected by reason of the reduction in credit earned for the credit year, giving effect to such reduction in the computation of carryovers or carrybacks of unused credit. If the recomputation described in the preceding sentence results in the aggregate in a decrease (taking into account any recomputations under this paragraph in respect of prior recapture years, as defined in subdivision (ii) (b) of this subparagraph) in the credits allowed for the credit year and for any other taxable year affected by the reduction in credit earned for the credit year, then the income tax for the recapture year shall be increased by the amount of such decrease in credits allowed. For treatment of such increase in tax, see paragraph (b) of this section. For rules relating to "disposition" and "cessation", see § 1.47-2. For rules relating to certain exceptions to the application of this section, see § 1.47-3. For special rules in the case of an electing small business corporation (as defined in section 1371(b)), an estate or trust, or a partnership, see respectively, § 1.47-4, 1.47-5, or 1.47-6.

(ii) For purposes of this section and §§ 1.47-2 through 1.47-6—

(a) The term "credit year" means the taxable year in which section 38 property was taken into account in computing a taxpayer's qualified investment.

(b) The term "recapture year" means the taxable year in which section 38 property the basis (or cost) of which was taken into account in computing a taxpayer's qualified investment is disposed of, or otherwise ceases to be section 38 property or becomes public utility property with respect to the taxpayer, before the close of the estimated useful life which was taken into account in computing such qualified investment.

(c) The term "recapture determination" means a recomputation made under this paragraph.

(2) **Rules for applying subparagraph (1).** For purposes of subparagraph (1) of this paragraph—

(i) In determining whether section 38 property is disposed of, or otherwise ceases to be section 38 property with respect to the taxpayer, before the close of the estimated useful life which was taken into account in computing the taxpayer's qualified investment, the term "estimated useful life" means the shortest life of the useful life category within which falls the estimated useful life which was assigned to such property under paragraph (e) of § 1.46-3. Thus, section 38 property which is assigned, under paragraph (e) of § 1.46-3, an estimated useful life of 7 years shall not be treated, for purposes of subparagraph (1) of this paragraph, as having been disposed of before the close of its estimated useful life if such property is sold 6 years (that is, the shortest life of the 6 years or more but less than 8 years useful life category) after the date on which it was placed in service. Likewise, section 38 property with an estimated useful life of 15 years

which is placed in service on January 1, 1962, shall not be treated as having been disposed of before the close of its estimated useful life if such property is sold at any time after January 1, 1970 (that is, 8 years or more after the date on which it was placed in service).

(ii) In determining the recomputed qualified investment with respect to property which is disposed of or otherwise ceases to be section 38 property the term "actual useful life" means, except as otherwise provided in this section and §§ 1.47-2 through 1.47-6, the period beginning with the date on which the property was placed in service by the taxpayer and ending with the date of such disposition or cessation. See paragraph (c) of this section.

(b) *Increase in income tax and reduction of investment credit carryover*—(1) *Increase in tax.* Except as provided in subparagraph (2) of this paragraph, any increase in income tax under this section shall be treated as income tax imposed on the taxpayer by chapter 1 of the Code for the recapture year notwithstanding that without regard to such increase the taxpayer has no income tax liability, has a net operating loss for such taxable year, or no income tax return was otherwise required for such taxable year.

(2) *Special rule.* Any increase in income tax under this section shall not be treated as income tax imposed on the taxpayer by chapter 1 of the Code for purposes of determining the amount of the credits allowable to such taxpayer under—

(i) Section 33 (relating to taxes of foreign countries and possessions of United States),

(ii) Section 34 (relating to dividends received by individuals before January 1, 1965),

(iii) Section 35 (relating to partially tax-exempt interest received by individuals),

(iv) Section 37 (relating to retirement income), and

(v) Section 38 (relating to investment in certain depreciable property).

(3) *Reduction in credit allowed as a result of a net operating loss carryback.*

(i) If a net operating loss carryback from the recapture year or from any taxable year subsequent to the recapture year reduces the amount allowed as a credit under section 38 for any taxable year up to and including the recapture year, then there shall be a new recapture determination under paragraph (a) of this section for each recapture year affected, taking into account the reduced amount of credit allowed after application of the net operating loss carryback.

(ii) Subdivision (i) of this subparagraph may be illustrated by the following examples:

Example (1). (a) X Corporation, which makes its return on the basis of a calendar year, acquired and placed in service on January 1, 1962, an item of section 38 property with a basis of \$10,000 and an estimated useful life of 8 years. The amount of qualified investment with respect to such asset was \$10,000. For the taxable year 1962, X Corporation's credit earned of \$700 (7 percent of \$10,000) was allowed under section 38 as a credit against its liability for tax of \$700.

In 1963 and 1964 X Corporation had no liability for tax and placed in service no section 38 property. On January 3, 1963, such item of section 38 property was sold to Y Corporation. Since the actual useful life of such item was only 1 year, there was a recapture determination under paragraph (a) of this section. The income tax imposed by chapter 1 of the Code on X Corporation for the taxable year 1963 was increased by the \$700 decrease in its credit earned for the taxable year 1962 (that is, the \$700 original credit earned minus zero recomputed credit earned).

(b) For the taxable year 1965, X Corporation has a net operating loss which is carried back to the taxable year 1962 and reduces its liability for tax, as defined in paragraph (c) of § 1.46-1, for such taxable year to \$200. As a result of such net operating loss carryback, X Corporation's credit allowed under section 38 for the taxable year 1962 is limited to \$200 and the excess of \$500 (\$700 credit earned minus \$200 limitation based on amount of tax) is an investment credit carryover to the taxable year 1963.

(c) For 1965, there is a recapture determination under subdivision (i) of this subparagraph for the 1963 recapture year. The \$700 increase in the income tax imposed on X Corporation for the taxable year 1963 is redetermined to be \$200 (that is, the \$200 credit allowed after taking into account the 1965 net operating loss minus zero credit which would have been allowed taking into account the 1963 recapture determination). In addition, X Corporation's \$500 investment credit carryover to the taxable year 1963 is reduced by \$500 (\$700 minus \$200) to zero and X Corporation is entitled to a \$500 refund of the tax paid as a result of the 1963 determination.

Example (2). (a) X Corporation, which makes its returns on the basis of a calendar year, acquired and placed in service on January 1, 1962, an item of section 38 property with a basis of \$10,000 and an estimated useful life of 8 years. The amount of qualified investment with respect to such asset was \$10,000. For the taxable year 1962, X Corporation's credit earned of \$700 (7 percent of \$10,000) was allowed under section 38 as a credit against its liability for tax of \$700. In 1963 and in 1964 X Corporation had no liability for tax and placed in service no section 38 property. On January 3, 1965, such item of section 38 property is sold to Y Corporation. For the taxable year 1965, X Corporation has a net operating loss which is carried back to the taxable year 1962 and reduces its liability for tax, as defined in paragraph (c) of § 1.46-1, for such taxable year to \$100.

(b) As a result of such net operating loss carryback, X Corporation's credit allowed under section 38 for the taxable year 1962 is limited to \$100 and the excess of \$600 (\$700 credit earned minus \$100 limitation based on amount of tax) is an investment credit carryover to the taxable year 1963.

(c) Since the actual useful life of the item of section 38 property sold to Y Corporation was only 3 years, there is a recapture determination under paragraph (a) of this section. X Corporation's \$600 investment credit carryover to 1963 is reduced by \$600 to zero. The income tax imposed by chapter 1 of the Code on X Corporation for the taxable year 1965 is increased by the \$100 reduction in credit allowed by section 38 for 1962.

(4) *Statement of recomputation.* The taxpayer shall attach to his income tax return for the recapture year a separate statement showing in detail the computation of the increase in income tax imposed on such taxpayer by chapter 1 of the Code and the reduction in any investment credit carryovers.

(c) *Date placed in service and date of disposition or cessation*—(1) *General rule.* For purposes of this section and §§ 1.47-2 through 1.47-6, in determining the actual useful life of section 38 property—

(i) Such property shall be treated as placed in service on the first day of the month in which such property is placed in service. The month in which property is placed in service shall be determined under the principles of paragraph (d) of § 1.46-3.

(ii) If during the taxable year such property ceases to be section 38 property with respect to the taxpayer—

(a) As a result of the occurrence of an event on a specific date (for example, a sale, transfer, retirement or other disposition), such cessation shall be treated as having occurred on the actual date of such event.

(b) For any reason other than the occurrence of an event on a specific date (for example, because such property is used predominantly in connection with the furnishing of lodging during such taxable year), such cessation shall be treated as having occurred on the first day of such taxable year.

(2) *Special rule.* Notwithstanding subparagraph (1) of this paragraph, if a taxpayer uses an averaging convention (see § 1.167 (a)-10) in computing depreciation with respect to section 38 property, then, for purposes of this section and §§ 1.47-2 through 1.47-6, he may use the assumed dates of additions and retirements in determining the actual useful life of such property provided such assumed dates are used consistently for purposes of subpart B of part IV of subchapter A of chapter 1 of the Code with respect to all section 38 property for which such convention is used for purposes of depreciation. This subparagraph shall not apply in any case where from all the facts and circumstances it appears that the use of such assumed dates results in a substantial distortion of the investment credit allowed by section 38. Thus, for example, if the taxpayer computes depreciation under a convention under which the average of the beginning and ending balances of the asset account for the taxable year are taken into account, he may use July 1 as the assumed date of all additions and retirements to such account. Similarly, if the taxpayer computes depreciation under a convention under which the average of the beginning and ending balances of the asset account for each month is taken into account, he may use the date determined by reference to the weighted average of the monthly averages as the assumed date of all additions and retirements to such account.

(3) *Example.* This paragraph may be illustrated by the following example:

Example. Assume that section 38 property is placed in service (within the meaning of paragraph (d) of § 1.46-3) on December 1, 1965 (thus, the credit is treated as being earned in 1965) but under the taxpayer's depreciation practice the period for depreciation with respect to such property

begins on January 1, 1966, and that the property is actually retired on December 2, 1970. Under the general rule of subparagraph (1) of this paragraph, the property is treated as placed in service on December 1, 1965, and as ceasing to be section 38 property with respect to the taxpayer on December 2, 1970, even though under the taxpayer's depreciation practice the period for depreciation with respect to such property begins on January 1, 1966, and terminates on January 1, 1971. However, under the special rule of subparagraph (2) of this paragraph the taxpayer may determine the actual useful life of the property by reference to the assumed dates of January 1, 1966, and January 1, 1971.

(d) *Examples.* Paragraphs (a) through (c) of this section may be illustrated by the following examples:

Example (1). (i) X Corporation, which makes its returns on the basis of the calendar year, acquired and placed in service on January 1, 1962, three items of section 38 property each with a basis of \$12,000 and an estimated useful life of 15 years. The amount of qualified investment with respect to each such asset was \$12,000. For the taxable year 1962, X Corporation's credit earned of \$2,520 was allowed under section 38 as a credit against its liability for tax of \$4,000. On December 2, 1965, one of the items of section 38 property is sold to Y Corporation.

(ii) The actual useful life of the item of property which is sold on December 2, 1965, is three years and eleven months. The recomputed qualified investment with respect to such item of property is zero (\$12,000 basis multiplied by zero applicable percentage) and X Corporation's recomputed credit earned for the taxable year 1962 is \$1,680 (7 percent of \$24,000). The income tax imposed by chapter 1 of the Code on X Corporation for the taxable year 1965 is increased by the \$840 decrease in its credit earned for the taxable year 1962 (that is, \$2,520 original credit earned minus \$1,680 recomputed credit earned).

Example (2). (i) The facts are the same as in example (1) and in addition on December 2, 1966, a second item of section 38 property placed in service in the taxable year 1962 is sold to Y Corporation.

(ii) The actual useful life of the item of property which is sold on December 2, 1966, is four years and eleven months. The recomputed qualified investment with respect to such item of property is \$4,000 (\$12,000 basis multiplied by 33 1/3 percent applicable percentage) and X Corporation's recomputed credit earned for the taxable year 1962 is \$1,120 (7 percent of \$16,000). The income tax imposed by chapter 1 of the Code on X Corporation for the taxable year 1966 is increased by \$560 (that is, \$1,400 (\$2,520 original credit earned minus \$1,120 recomputed credit earned) reduced by the \$840 increase in tax for 1965).

Example (3). (i) The facts are the same as in example (1) except that for the taxable year 1962 X Corporation's liability for tax under section 46(a) (3) is only \$1,520. Therefore, for such taxable year X Corporation's credit allowed under section 38 is limited to \$1,520 and the excess of \$1,000 (\$2,520 credit earned minus \$1,520 limitation based on amount of tax) is an unused credit. Of such \$1,000 unused credit, \$100 is allowed as a credit under section 38 for the taxable year 1963, \$100 is allowed for 1964, and \$800 is carried to the taxable year 1965.

(ii) The actual useful life of the item of property which is sold on December 2, 1965, is three years and eleven months. The recomputed qualified investment with respect to such item of property is zero (\$12,000 basis multiplied by zero applicable percentage) and X Corporation's recomputed

credit earned for the taxable year 1962 is \$1,680 (7 percent of \$24,000). If such \$1,680 recomputed credit earned had been taken into account in place of the \$2,520 original credit earned, X's credit allowed for 1962 would have been \$1,520, and of the \$160 unused credit from 1962 \$100 would have been allowed as a credit under section 38 for 1963, and \$60 would have been allowed for 1964. X Corporation's \$800 investment credit carryover to the taxable year 1965 is reduced by \$800 to zero. The income tax imposed by chapter 1 of the Code on X Corporation for the taxable year 1965 is increased by \$40 (that is, the aggregate reduction in the credits allowed by section 38 for 1962, 1963, and 1964).

Example (4). (i) X Corporation, which makes its returns on the basis of the calendar year, acquired and placed in service on November 1, 1962, an item of section 38 property with a basis of \$12,000 and an estimated useful life of 10 years. The amount of qualified investment with respect to such property was \$12,000. For the taxable year 1962, X Corporation's credit earned of \$240 was allowed under section 38 as a credit against its liability for tax of \$840. For each of the taxable years 1963 and 1964 X Corporation's liability for tax was zero and its credit earned was \$400; therefore, for each of such years its unused credit was \$400. For the taxable year 1965 its liability for tax was \$200 and its credit earned was zero; therefore, \$200 of the \$400 unused credit from 1963 was allowed as credit for 1965 and \$600 (\$200 from 1963 and \$400 from 1964) is an investment credit carryover to 1966. On February 2, 1966, such item of section 38 property is sold to Y Corporation.

(ii) The actual useful life of such item of property is three years and three months. The recomputed qualified investment with respect to such property is zero (\$12,000 basis multiplied by zero) and X Corporation's recomputed credit earned for the taxable year 1962 is zero. If such zero recomputed credit earned had been taken into account in place of the \$240 original credit earned, the entire \$400 unused credit from 1963 (including the \$200 portion which was originally allowed as a credit for 1965) and the \$400 unused credit from 1964 would have been allowed as investment credit carrybacks against X Corporation's liability for tax of \$840 for 1962. (See § 1.46-2 for rules relating to the carryback of unused credits.)

(iii) Therefore, the \$600 carryover from 1963 and 1964 to 1966 is eliminated and the income tax imposed by chapter 1 of the Code on X Corporation for the taxable year 1966 is increased by the \$240 aggregate reduction in the credits allowed by section 38 for the taxable years 1962 and 1965 (that is, \$1,040 credit allowed minus \$800 which would have been allowed).

Example (5). (i) X Corporation, which makes its returns on the basis of the calendar year, acquired and placed in service on November 1, 1962, an item of section 38 property with a basis of \$10,000 and an estimated useful life of 8 years. The amount of qualified investment with respect to such asset was \$10,000. For the taxable year 1962, X Corporation's credit earned of \$700 was allowed as a credit against its liability for tax. For each of the taxable years 1963, 1964, and 1965 X had no taxable income. On July 3, 1966, the item of section 38 property is sold to Y Corporation. For the taxable year 1966 X Corporation has a net operating loss of \$3,000.

(ii) The actual useful life of the item of property is three years and eight months. The recomputed qualified investment with respect to such item of property is zero and X Corporation's recomputed credit earned for the taxable year 1962 is zero. Notwithstanding the \$3,000 net operating loss for the taxable year 1966, the income tax imposed by

chapter 1 of the Code on X Corporation for such year is \$700 (that is, the decrease in its credit earned for the taxable year 1962).

(e) *Identification of property.*—(1) *General rule.*—(i) *Record requirements.* In general, the taxpayer must maintain records from which he can establish, with respect to each item of section 38 property, the following facts:

(a) The date the property is disposed of or otherwise ceases to be section 38 property.

(b) The estimated useful life which was assigned to the property under paragraph (e) of § 1.46-3.

(c) The month and the taxable year in which the property was placed in service, and

(d) The basis (or cost), actually or reasonably determined, of the property.

(ii) *Recapture determination.* For purposes of determining whether section 38 property is disposed of, or otherwise ceases to be section 38 property with respect to the taxpayer, before the close of its estimated useful life, and for purposes of determining recomputed qualified investment, the taxpayer must establish from his records the facts required by subdivision (i) of this subparagraph.

(iii) *Examples.* If the taxpayer fails to maintain records from which he can establish the facts required by subdivision (i) of this subparagraph, then this section shall be applied to the taxpayer in the manner indicated in the following examples:

Example (1). Corporation X, organized on January 1, 1964, files its income tax return on the basis of a calendar year. During the years 1964 and 1965, X places in service several items of machinery to which it assigns estimated useful lives of 8 years. X places the items of machinery in a composite account for purposes of computing depreciation. When X's 1966 return is being audited, X is unable to establish whether the items placed in service in 1964 and 1965 were still on hand at the end of 1965. Therefore, for purposes of paragraph (a) of this section, X is treated as having disposed of, in 1966, all of the items of machinery placed in service in 1964 and 1965.

Example (2). Corporation Y, organized on January 1, 1960, files its income tax return on the basis of a calendar year. During each of the years 1960 through 1965, Y places in service four items of machinery to each of which it assigns an estimated useful life of 8 years for depreciation purposes (and for purposes of computing qualified investment for relevant years). Y places the items of machinery in a composite account for purposes of computing depreciation (and for purposes of computing qualified investment for relevant years). When Y's 1965 return is being audited, Y can establish that it retired during 1965 only six items of this machinery. However, Y cannot establish the date on which these six items were placed in service, nor can Y establish that the items placed in service in 1963 or 1964 are still on hand as of the end of 1965. No previous recapture has taken place with respect to any of the items placed in service in 1963 or 1964. Assuming that paragraph (e) (2) and (3) of this section is not applicable, Y is treated, for purposes of paragraph (a) of this section, as having disposed of, in 1965, the four items placed in service in 1964, the most recent year before 1965 in which such property was placed in service, and two items from 1963, the next most recent year.

Example (3). The facts are the same as in example (2) except that when Y's 1966 return is being audited, Y can establish from its records that all four items placed in service in 1965 are still on hand and that only three items were retired in 1966. For purposes of paragraph (a) of this section, Y is treated as having disposed of, in 1966, the two remaining items of machinery placed in service in 1963, and one of the items placed in service in 1962.

(2) *Treatment of "mass assets".* (i) If, in the case of mass assets (as defined in subparagraph (4) of this paragraph), it is impracticable for the taxpayer to maintain records from which he can establish with respect to each item of section 38 property the facts required by subparagraph (1) of this paragraph, and if he adopts other reasonable record-keeping practices, consonant with good accounting and engineering practices, and consistent with his prior recordkeeping practices, then he may substitute data from an appropriate mortality dispersion table. An appropriate mortality dispersion table must be based on an acceptable sampling of the taxpayer's actual experience or other acceptable statistical or engineering techniques. In lieu of such mortality dispersion table, the taxpayer may use a standard mortality dispersion table prescribed by the Commissioner. If the taxpayer uses such standard mortality dispersion table for any taxable year, it must be used for all subsequent taxable years unless the taxpayer obtains the consent of the Commissioner to change. If mass assets are placed in a multiple asset account and if the depreciation rate for such account is based on the maximum expected life of the longest lived asset in such account, in applying a mortality dispersion table (including a standard mortality dispersion table) the average expected useful life of the mass assets in such account must be used.

(ii) Subdivision (i) of this subparagraph shall not apply with respect to assets placed in service in taxable years ending on or after June 30, 1967, unless the estimated useful lives which were assigned to such assets for purposes of determining qualified investment—

(a) Were separate lives based on the estimated range of years taken into account in establishing the average useful life of assets similar in kind under paragraph (e) (3) (ii) (b) of § 1.46-3, and

(b) Were determined by use of a mortality dispersion table (including a standard mortality dispersion table).

(iii) Any standard mortality dispersion table prescribed by the Commissioner shall be based on average useful life categories and with respect to each category shall contain five columns, the first four of which shall state the percentage of property assumed to have a useful life of—

Column (1): Less than 4 years,
Column (2): 4 years or more but less than 6 years,
Column (3): 6 years or more but less than 8 years, and
Column (4): 8 years or more.

The fifth column shall show the total qualified investment as a percentage and

shall be used in connection with the determination to be made under § 1.46-3 (e) (3) (iii).

(iv) Whenever the standard mortality dispersion table is used for a taxable year under subdivision (i) of this subparagraph (whether or not such table was used in determining qualified investment), the percentage of property shown in column (1) of the table shall (for purposes of section 47, this section, and §§ 1.47-2 through 1.47-6) be deemed to have been disposed of on the day before the expiration of the 4-year period beginning on the date on which it was considered as placed in service under § 1.47-1 (c); the percentage of property shown in column (2) of the table shall be deemed to have been disposed of on the day before the expiration of the 6-year period beginning on the date on which it was so considered as placed in service; and the percentage of property shown in column (3) shall be deemed to have been disposed of on the day before the expiration of the 8-year period beginning on the date on which it was so considered as placed in service. In applying this subdivision for purposes of recomputing qualified investment, the proper average useful life category shall be used whether or not such category was used in determining qualified investment.

(v) In lieu of using subdivision (iv) of this subparagraph for purposes of recomputing qualified investment, a taxpayer may, for the first recapture year (as defined in paragraph (a) (1) (ii) (b) of this section) to which such subdivision (iv) would otherwise apply with respect to any mass asset account, recompute qualified investment on the basis of the difference between (a) the proper total qualified investment based on the percentage shown in column (5) of the table, and (b) the total qualified investment actually claimed by the taxpayer for the year in which the property was placed in service.

Example. Assume that the taxpayer places in service during 1963 mass assets costing him \$100,000, that he places these assets in a multiple asset account for which he properly claims a useful life of 6 years and a qualified investment of \$66,667 ($\frac{2}{3} \times \$100,000$), and that he is allowed an investment credit of \$4,667.67. When the taxpayer's 1967 return is being audited he is unable to establish that any of the mass assets placed in service in 1963 were still on hand at the end of 1967.

The taxpayer elects to use the standard mortality dispersion table prescribed by the Commissioner to determine the amount of recapture with respect to these mass assets. Assume that the table prescribed by the Commissioner shows with respect to mass assets with an average useful life of 6 years the following:

Percent of property assumed to have a useful life of—				Total qualified investment (percent)
Less than 4 years	4 years or more, but less than 6 years	6 years or more, but less than 8 years	8 years or more	
(1)	(2)	(3)	(4)	(5)
15.87	34.13	34.13	15.87	50.00

(a) Under these circumstances 15.87 percent of the mass assets placed in service in 1963 are deemed to have been disposed of during 1967. With respect to these assets, the amount of qualified investment for 1963 was \$10,580 ($\$15,870 \times \frac{2}{3}$) and the amount of credit earned was \$740.60 (7 percent of \$10,580), whereas the recomputed qualified investment is zero and the recomputed credit earned is zero. Thus, the tax imposed by chapter 1 of the Code for 1967 is increased by \$740.60.

(b) No recapture determination is required for 1968 since no assets are deemed to have been disposed of in that year. During 1969, 34.13 percent of the mass assets placed in service in 1963 are deemed to have been disposed of. With respect to these assets, the amount of qualified investment for 1963 was \$22,753.34 ($\$34,130 \times \frac{2}{3}$) and the amount of credit earned was \$1,592.73 (7 percent of \$22,753.34), whereas the recomputed qualified investment is \$11,376.67 ($\$34,130 \times \frac{2}{3}$) and the recomputed credit earned is \$796.37 (7 percent of \$11,376.67). Thus, the tax imposed by chapter 1 of the Code for 1969 is increased by \$796.36 (\$1,592.73 minus \$796.37).

(c) If the taxpayer chooses to recompute qualified investment by using the method provided in subdivision (v) of this subparagraph, the increase in tax for 1967 (the first recapture year) would be \$1,167.67, i.e., the original credit earned, \$4,667.67, minus the recomputed credit earned, \$3,500 (50 percent, the percentage shown in column (5), of \$100,000 multiplied by 7 percent). As long as the same average useful life category reflects the taxpayer's experience for subsequent years, no recapture determination will be required for any future year, except as provided by subparagraph (3) (iv) of this paragraph.

(3) *Special rules.* (i) Taxpayers who properly determine estimated useful lives under § 1.46-3 (e) (3) (ii) (b) or (iii) may treat such assets as having been disposed of or having ceased to be section 38 assets in the order of the estimated useful lives that were assigned to such assets. Thus, the asset that is first disposed of or first ceases to be section 38 property may be treated as the asset to which there was assigned the shortest estimated useful life; the next asset disposed of or ceasing to be section 38 property may be treated as the asset to which there was assigned the second shortest life, etc.

(ii) In the case of taxpayers who use the rule of subdivision (i) of this subparagraph with respect to mass assets for which the estimated useful life was determined under § 1.46-3 (e) (3) (iii), if the dispersion shown by the mortality dispersion table effective for a taxable year subsequent to the credit year is the same as the dispersion shown by the mortality table that was effective for the credit year (for example, if the same average useful life on the standard mortality dispersion table reflects the taxpayer's experience for both such years, no recapture determination is required for such subsequent taxable year).

(iii) Notwithstanding subdivision (i) of this subparagraph, taxpayers who, for purposes of determining qualified investment, do not use a mortality dispersion table with respect to certain section 38 assets similar in kind but who consistently assign under paragraph (e) (3) (ii) (b) of § 1.46-3 to such assets separate lives based on the estimated range of

years taken into consideration in establishing the average useful life of such assets, may select the order in which such assets shall be considered as having been disposed of, regardless of the taxable years in which such assets were placed in service. If a taxpayer uses the method provided in this subdivision to determine that any asset is considered as having been disposed of, then, in addition to complying with the record requirements of subparagraph (1)(i) of this paragraph, such taxpayer must maintain records from which he can establish to the satisfaction of the district director that such asset has not previously been considered as having been disposed of. In addition, if, for any taxable year, a taxpayer uses the method provided in this subdivision for any asset, he must use for such year and for each subsequent taxable year (unless he obtains the district director's consent to change) with respect to all assets similar in kind to such asset—

(a) The method of determining estimated useful lives described in paragraph (e) (3) (ii) (b) of § 1.46-3, and

(b) The method he has selected under this subdivision for determining the order in which such assets are considered as having been disposed of.

A request by a taxpayer to obtain the district director's consent to change a system or method described in this subdivision with respect to assets similar in kind must be submitted to the district director on or before the last day of the taxable year with respect to which the change is sought.

(iv) Notwithstanding subdivisions (i), (ii), and (iii) of this subparagraph, there shall be taken into account separately any abnormal retirement of section 38 property of substantial value for which the estimated useful life was determined under § 1.46-3(e) (3) (ii) (b) or (iii). For definition of abnormal retirement, see paragraph (b) of § 1.167(a)-3.

(4) *Definition of "mass assets"*. For purposes of this paragraph and paragraph (e) (3) (iii) of § 1.46-3, the term "mass assets" means a mass or group of individual items of property (i) not necessarily homogeneous, (ii) each of which is minor in value relative to the total value of such mass or group, (iii) numerous in quantity, (iv) usually accounted for only on a total dollar or quantity basis, and (v) with respect to which separate identification is impracticable. The term includes portable air and electric tools, jigs, dies, railroad ties, overhead conductors, hardware, textile spindles, and minor items of office, plant, and store furniture and fixtures; and returnable containers and other items which are considered subsidiary assets for purposes of computing the allowance for depreciation.

(5) *Example*. This paragraph may be illustrated by the following example:

Example. (i) Taxpayer A uses numerous small returnable containers in his business. It is impracticable for A to keep individual detailed records with respect to such containers which are mass assets. In 1965, A places in service 10 million containers purchased for \$1 million, and reasonably deter-

mines that each of such containers has a basis of 10 cents. A places such containers in a multiple asset account to which is assigned a 5-year average useful life for purposes of computing depreciation. A has conducted an appropriate mortality study which shows that the containers have the following estimated useful lives:

Percent of assets	Useful life (years)
10-----	3
20-----	4
40-----	5
20-----	6
10-----	7

A assigns separate lives to such assets based on the estimated range of years taken into account in establishing the average useful life of such containers. The qualified investment with respect to such containers is \$400,000 computed as follows:

Useful life	Basis	Applicable percentage	Qualified investment
4-----	\$200,000	33 1/3	\$66,667
5-----	400,000	33 1/3	133,333
6-----	200,000	66 2/3	133,333
7-----	100,000	66 2/3	66,667
			400,000

A's credit earned for 1965 of \$38,000 (7 percent times \$400,000) is allowed as a credit under section 38 against A's liability for tax of \$2 million. (For purposes of this example the computations of investment credit and recapture with respect to containers placed in service in years other than 1965 are omitted.) The mortality studies effective for 1966 and 1967 show that none of the containers placed in service in 1965 was retired.

(ii) A's mortality study effective with respect to 1968 shows that the containers are being retired as follows:

Percent of assets	Useful life (years)
30-----	3
20-----	4
30-----	5
10-----	6
10-----	7

Thus, the 1968 study shows that 30 percent of the 10 million containers placed in service in 1965 were retired in 1963. Under the rule of subparagraph (3) (i) of this paragraph, the 3 million containers are treated as consisting of the 1 million containers to which was assigned a 3-year useful life and the 2 million containers to which was assigned a 4-year useful life. Taking into account only the fact that 30 percent of the containers placed in service in 1965 had an actual life of less than 4 years, A's recomputed qualified investment for 1965 is \$333,333 and his recomputed credit earned is \$23,333. A's income tax for 1968 is increased by \$4,667 (\$28,000 original credit earned minus \$23,333 recomputed credit earned).

(iii) The mortality study effective for 1969 shows the same results as the mortality study effective for 1968. Thus, it shows that 2 million containers were retired in 1963 (an actual life of 4 years). Under the rule of subparagraph (3) (i) of this paragraph such 2 million containers are treated as having been among 4 million containers to which were assigned a 5-year useful life. Therefore, no recapture determination is required for 1969.

(iv) The mortality study effective for 1970 shows the same results as the mortality study effective for 1968. Thus, it shows that 3 million containers were retired in 1970 (an actual life of 5 years). Under the rule of subparagraph (3) (i) of this paragraph, the 3 million are treated as having been assigned

useful lives as follows: 2 million as having been assigned a useful life of 5 years, and 1 million as having been assigned a useful life of 6 years. Taking into account only the fact that 10 percent of the containers placed in service in 1965 had an actual life of 5 years rather than the 6 years estimated useful life assigned to them, A's recomputed qualified investment is \$300,000 and A's credit earned for 1965 is \$21,000. Thus, taking into account the 1968 recapture determination, A's income tax for 1970 is increased by \$2,333.

(f) *Public utility property*—(1) *Recomputed qualified investment*. In recomputing qualified investment with respect to section 38 property which becomes public utility property (as defined in paragraph (g) of § 1.46-3)—

(i) If such property becomes public utility property less than 4 years from the date on which it was placed in service, then such property shall be treated as public utility property for its entire useful life.

(ii) If such property becomes public utility property 4 years or more but less than 6 years from the date on which it was placed in service, then such property shall be treated as section 38 property which is not public utility property for the first 4 years of its estimated useful life and as public utility property for the remaining period of its estimated useful life.

(iii) If such property becomes public utility property 6 years or more but less than 8 years from the date on which it was placed in service, then such property shall be treated as section 38 property which is not public utility property for the first 6 years of its estimated useful life and as public utility property for the remaining period of its estimated useful life.

(2) *Examples*. Subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). (i) X Corporation, which makes its returns on the basis of the calendar year, acquired and placed in service on January 1, 1962, an item of section 38 property with a basis of \$12,000 and an estimated useful life of 8 years. The amount of qualified investment with respect to such property was \$12,000. For the taxable year 1962, X Corporation's credit earned was \$840 (7 percent of \$12,000) and for such taxable year X Corporation was allowed under section 38 a credit of \$840 against its liability for tax. During the taxable year 1967 such property becomes public utility property (as defined in paragraph (g) of § 1.46-3) with respect to X Corporation.

(ii) Such item of section 38 property is treated as section 38 property which is not public utility property for the first four years of its eight year estimated useful life and is treated as public utility property for the remaining four years. The recomputed qualified investment with respect to such item of section 38 property is \$7,428, computed as follows:

\$12,000 basis x 33 1/3 percent applicable percentage-----	\$4,000
\$12,000 basis x 1/2 x 66 2/3 percent applicable percentage-----	3,428
Total recomputed qualified investment-----	7,428

X Corporation's recomputed credit earned for the taxable year 1962 is \$520 (7 percent of \$7,428). The income tax imposed by

chapter 1 of the Code on X Corporation for the taxable year 1967 is increased by the \$320 decrease in its credit earned for the taxable year 1962 (that is, \$840 original credit earned minus \$520 recomputed credit earned).

Example (2). (i) The facts are the same as in example (1) and in addition the item of section 38 property which became public utility property in 1967 is sold to Y Corporation on January 2, 1968.

(ii) The actual useful life of such item of property is six years. For the first four years of its eight year estimated useful life such item is treated as section 38 property which is not public utility property and for the remaining two years is treated as public utility property. The recomputed qualified investment, with respect to such item of property is \$5,714, computed as follows:

\$12,000 basis x 33 1/4 percent applicable percentage.....	\$4,000
\$12,000 basis x 3/4 x 33 1/4 percent applicable percentage.....	1,714
Total recomputed qualified investment.....	5,714

X Corporation's recomputed credit earned for the taxable year 1962 is \$400 (7 percent of \$5,714). The income tax imposed by chapter 1 of the Code on X Corporation for the taxable year 1968 is increased by \$120 (that is, \$440 (\$840 original credit earned minus \$400 recomputed credit earned) minus \$320 increase in tax for 1967).

PAR. 5. Section 1.47-2 is added to read as follows:

§ 1.47-2 "Disposition" and "Cessation".

(a) *General rule*—(1) *"Disposition"*. For purposes of this section and § 1.47-1 and §§ 1.47-3 through 1.47-6, the term "disposition" includes a sale in a sale-and-leaseback transaction, a transfer upon the foreclosure of a security interest and a gift, but such term does not include a mere transfer of title to a creditor upon creation of a security interest. See paragraph (g) of § 1.47-3 for treatment of certain sale-and-leaseback transactions.

(2) *"Cessation"*. (i) A determination of whether section 38 property ceases to be section 38 property with respect to the taxpayer must be made for each taxable year subsequent to the credit year. Thus, in each such taxable year the taxpayer must determine, as if such property were placed in service in such taxable year, whether such property would qualify as section 38 property (within the meaning of § 1.48-1) in the hands of the taxpayer for such taxable year.

(ii) Section 38 property does not cease to be section 38 property with respect to the taxpayer in any taxable year subsequent to the credit year merely because under the taxpayer's depreciation practice no deduction for depreciation with respect to such property is allowable to the taxpayer for the taxable year, provided that the property continues to be used in the taxpayer's trade or business (or in the production of income) and otherwise qualifies as section 38 property with respect to the taxpayer.

(iii) This subparagraph may be illustrated by the following examples:

Example (1). A, an individual who makes his returns on the basis of the calendar year, on January 1, 1962, acquired and placed in service in his trade or business an item

of section 38 property with an estimated useful life of eight years. On January 1, 1965, A removes the item of section 38 property from use in his trade or business by converting such item to personal use. Therefore no deduction for depreciation with respect to such item of property is allowable to A for the taxable year 1965. On January 1, 1965, such item of property ceases to be section 38 property with respect to A.

Example (2). On January 1, 1965, A placed in service an item of section 38 property with a basis of \$10,000 and an estimated useful life of 4 years. A depreciates such item, which has a salvage value of \$2,000 (after taking into account section 167(f)), on the declining balance method at a rate of 50 percent (that is, twice the straight line rate of 25 percent). With respect to such item, A is allowed deductions for depreciation of \$5,000 for 1965, \$2,500 for 1966, and \$500 for 1967. A is not allowed a deduction for depreciation for 1968 although he continues to use such item in his trade or business. Such item does not cease to be section 38 property with respect to A in 1968.

(b) *Leased property*—(1) *In general.* For purposes of paragraph (a) of § 1.47-1, generally the mere leasing of section 38 property by a lessor who took the basis of such property into account in computing his qualified investment for the credit year shall not be considered to be a disposition. However, in a case where a lease is treated as a sale for income tax purposes such transaction is considered to be a disposition. Leased section 38 property ceases to be section 38 property with respect to the lessor if, in any taxable year subsequent to the credit year, such property would not qualify as section 38 property (as defined in § 1.48-1) in the hands of the lessor, the lessee, or any sublessee. Thus, if, in a taxable year subsequent to the credit year, a lessee uses the property predominantly outside the United States, such property shall be considered to have ceased to be section 38 property with respect to the lessor.

(2) *Where lessor elects to treat lessee as purchaser.* For purposes of paragraph (a) of § 1.47-1, if, under § 1.48-4, the lessor of new section 38 property made a valid election to treat the lessee as having purchased such property for purposes of the credit allowed by section 38, the following rules apply in determining whether such property is disposed of, or otherwise ceases to be section 38 property with respect to the lessee:

(i) Generally, a mere disposition by the lessor of property subject to a lease shall not be considered to be a disposition by the lessee.

(ii) If the lessor makes a disposition of property subject to a lease to a person who may not, under § 1.48-4, make a valid election to treat the lessee as having purchased such property for purposes of the credit allowed by section 38 (such as a person described in paragraph (a) (5) of § 1.48-4), such property shall be considered to have ceased to be section 38 property with respect to the lessee on the date of such disposition.

(iii) If a lease is terminated and the property is transferred by the lessee to the lessor or to any other person, such

transfer shall be considered to be a disposition by the lessee.

(iv) If the lessee actually purchases such property in the credit year or in a taxable year subsequent to the credit year, such purchase shall not be considered to be a disposition.

(v) The property ceases to be section 38 property with respect to the lessee if in any taxable year subsequent to the credit year such property would not qualify as section 38 property (as defined in § 1.48-1) in the hands of the lessor, the lessee, or any sublessee. Thus, for example, if, in a taxable year subsequent to the credit year, a sublessee uses the property predominantly outside the United States, the property ceases to be section 38 property with respect to the lessee.

(c) *Reduction in basis of section 38 property*—(1) *General rule.* If, in the credit year or in any taxable year subsequent to the credit year, the basis (or cost) of section 38 property is reduced, for example, as a result of a refund of part of the cost of the property, then such section 38 property shall be treated as having ceased to be section 38 property with respect to the taxpayer to the extent of the amount of such reduction in basis (or cost) on the date the refund which results in such reduction in basis (or cost) is received or accrued, except that for purposes of § 1.47-1(a) the actual useful life of the property treated as having ceased to be section 38 property shall be considered to be less than 4 years.

(2) *Example.* Subparagraph (1) of this paragraph may be illustrated by the following example:

Example. (1) On January 1, 1962, A, a cash basis taxpayer, acquired from X Cooperative an item of section 38 property with a basis of \$100 and an estimated useful life of 10 years which he placed in service on such date. The amount of qualified investment with respect to such asset was \$100. For the taxable year 1962 A was allowed under section 38 a credit of \$7 against his liability for tax. On June 1, 1963, A receives a \$10 patronage dividend from X Cooperative with respect to such asset. Under paragraph (c) (2) (i) of § 1.1385-1, the basis of the asset in A's hands is reduced by \$10.

(ii) Under subparagraph (1) of this paragraph, on June 1, 1963, the item of section 38 property ceases to be section 38 property with respect to A to the extent of \$10 of the original \$100 basis.

(d) *Retirements.* A retirement of section 38 property, including a normal retirement (as defined in paragraph (b) of § 1.167(a)-8, relating to definition of normal and abnormal retirements), whether from a single asset account or a multiple asset account, and an abandonment, are dispositions for purposes of paragraph (a) of § 1.47-1.

(e) *Conversion of section 38 property to personal use.* (1) If, for any taxable year subsequent to the credit year—

(i) A deduction for depreciation is allowable to the taxpayer with respect to only a part of section 38 property because such property is partially devoted to personal use, and

(ii) The part of the property (expressed as a percentage of its total basis

(or cost)) with respect to which a deduction for depreciation is allowable for such taxable year is less than the part of the property with respect to which a deduction for depreciation was allowable in the credit year,

then such property shall be considered as having ceased to be section 38 property with respect to the taxpayer to such extent. Further, property ceases to be section 38 property with respect to the taxpayer to the extent that a deduction for depreciation thereon is disallowed under section 274 (relating to disallowance of certain entertainment, etc., expenses).

(2) *Examples.* Subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). (i) A, a calendar-year taxpayer, acquired and placed in service on January 1, 1962, an automobile with a basis of \$2,400 and an estimated useful life of four years. In the taxable year 1962 the automobile was used by A 80 percent of the time in his trade or business and was used 20 percent of the time for personal purposes. Thus, for the taxable year 1962 only 80 percent of the basis of the automobile qualified as section 38 property since a deduction for depreciation was allowable to A only with respect to 80 percent of the basis of the automobile. In the taxable year 1963 the automobile is used by A only 60 percent of the time in his trade or business. Thus, for the taxable year 1963 a deduction for depreciation is allowable to A only with respect to 60 percent of the basis of the automobile.

(ii) Under subparagraph (1) of this paragraph, on January 1, 1963, the automobile ceases to be section 38 property with respect to A to the extent of 20 percent (80 percent minus 60 percent) of the \$2,400 basis of the automobile.

Example (2). (i) The facts are the same as in example (1) and in addition for the taxable year 1964 a deduction for depreciation is allowable to A only with respect to 40 percent of the basis of the property.

(ii) Under subparagraph (1) of this paragraph, on January 1, 1964, the automobile ceases to be section 38 property with respect to A to the extent of 20 percent (60 percent minus 40 percent) of the \$2,400 basis of the automobile.

PAR. 6. Section 1.47-3 is added to read as follows:

§ 1.47-3 Exceptions to the application of § 1.47-1.

(a) *In general.* Notwithstanding the provisions of § 1.47-2, relating to "disposition" and "cessation," paragraph (a) of § 1.47-1 shall not apply if paragraph (b) (relating to transfers by reason of death), paragraph (c) (relating to property destroyed by casualty), paragraph (d) (relating to reselection of used section 38 property), paragraph (e) (relating to transactions to which section 381 (a) applies), paragraph (f) (relating to mere change in form of conducting a trade or business), or paragraph (g) (relating to sale-and-lease-back transactions) of this section applies with respect to such disposition or cessation.

(b) *Transfers by reason of death.* (1) *General rule.* Notwithstanding the provisions of § 1.47-2, relating to "disposition" and "cessation," paragraph (a)

of § 1.47-1 shall not apply to a transfer of section 38 property by reason of the death of the taxpayer. Thus, for example, with respect to section 38 property held in joint tenancy, paragraph (a) of § 1.47-1 shall not apply to the transfer of the deceased taxpayer's interest to the surviving joint tenant. If, under § 1.48-4, the lessor of new section 38 property made a valid election to treat the lessee as having purchased such property for purposes of the credit allowed by section 38, paragraph (a) of § 1.47-1 does not apply if, by reason of the death of the lessee, there is a termination of the lease and transfer of the leased property to the lessor, or there is an assignment of the lease and transfer of the leased property to another person. Moreover, paragraph (a) of § 1.47-1 does not apply to the transfer of a partner's interest in a partnership, a beneficiary's interest in an estate or trust, or shares of stock of a shareholder of an electing small business corporation (as defined in section 1371(b)) by reason of the death of such partner, beneficiary, or shareholder. Paragraph (a) of § 1.47-1 applies to a gift by a taxpayer prior to his death even if the value of such gift is included in his gross estate for estate tax purposes (such as, a gift in contemplation of death under section 2035). The effect of this subparagraph is that any section 38 property held by a taxpayer at the time of his death is deemed to have been held by him for its entire estimated useful life.

(2) *Examples.* Subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). (i) A, an individual, acquired and placed in service on January 1, 1962, an item of section 38 property with a basis of \$10,000 and an estimated useful life of eight years. On April 23, 1963, A dies and, as a result of A's death, his interest in such item of section 38 property is transferred to a testamentary trust pursuant to A's will, and on February 1, 1967, the trust is terminated and the item of section 38 property is transferred to the beneficiaries of the trust.

(ii) Under subparagraph (1) of this paragraph, paragraph (a) of § 1.47-1 does not apply to the transfer, as a result of A's death, of his interest in such item of section 38 property to the testamentary trust. Moreover, paragraph (a) of § 1.47-1 does not apply to the February 1, 1967, transfer of such item of section 38 property by the trust to its beneficiaries.

Example (2). (i) X Corporation, an electing small business corporation (as defined in section 1371(b)) which makes its returns on the basis of a calendar year, acquired and placed in service during 1962 an item of section 38 property. On December 31, 1963, X Corporation had 10 shares of stock outstanding which were owned as follows: A owned eight shares and B owned two shares. On December 31, 1963, 80 percent of the basis of the item of section 38 property was apportioned to A and 20 percent to B. On June 1, 1964, A dies and, as a result of A's death, his eight shares of stock in X Corporation are transferred to his wife. On July 10, 1965, X Corporation sells the item of section 38 property to Y Corporation.

(ii) Under subparagraph (1) of this paragraph, paragraph (a) of § 1.47-1 does not apply to the transfer, as a result of A's death, of his eight shares of stock in X Corporation

to his wife. Moreover, with respect to the July 10, 1965, sale paragraph (a) of § 1.47-1 applies only to the 20 percent of the basis of the item of section 38 property which was apportioned to B.

(c) *Property destroyed by casualty.* (1) *General rule.* Notwithstanding the provisions of § 1.47-2, relating to "disposition" and "cessation," paragraph (a) of § 1.47-1 shall not apply to property which is disposed of or otherwise ceases to be section 38 property with respect to the taxpayer on account of its destruction or damage by fire, storm, shipwreck or other casualty, or by reason of its theft if—

(i) Section 38 property is placed in service by the taxpayer to replace (within the meaning of paragraph (h) of § 1.46-3) such destroyed, damaged, or stolen property, and

(ii) The basis (or cost) of the section 38 property which is placed in service by the taxpayer to replace the destroyed, damaged, or stolen property is reduced under paragraph (h) of § 1.46-3.

(2) *Examples.* Subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). (i) A acquired and placed in service on January 1, 1962, machine No. 1 which qualified as section 38 property with a basis of \$30,000 and an estimated useful life of 6 years. The amount of qualified investment with respect to such machine was \$20,000. For the taxable year 1962 A's credit earned of \$1,400 was allowed under section 38 as a credit against its liability for tax. On January 1, 1963, machine No. 1 is completely destroyed by fire. On January 1, 1963, the adjusted basis of machine No. 1 in A's hands is \$24,500. A receives \$23,000 in insurance proceeds as compensation for the destroyed machine, and on February 15, 1964, A acquires and places in service machine No. 2, which qualifies as section 38 property, with a basis of \$41,000 and an estimated useful life of six years to replace machine No. 1.

(ii) Under subparagraph (1) of this paragraph, paragraph (a) of § 1.47-1 does not apply with respect to machine No. 1 since machine No. 2 is placed in service to replace machine No. 1 and the \$41,000 basis of machine No. 2 is reduced, under paragraph (h) of § 1.46-3, by \$23,000. (See example (1) of paragraph (b) (3) of § 1.46-3.)

Example (2). (i) The facts are the same as in example (1) except that A receives only \$19,000 in insurance proceeds as compensation for the destroyed machine.

(ii) Although machine No. 2 is placed in service to replace machine No. 1, subparagraph (1) of this paragraph does not apply with respect to machine No. 1 since the basis of machine No. 2 is not reduced under paragraph (h) of § 1.46-3. Paragraph (a) of § 1.47-1 applies with respect to the January 1, 1963, destruction of machine No. 1. The actual useful life of machine No. 1 is one year. The recomputed qualified investment with respect to such machine is zero (\$30,000 basis multiplied by zero applicable percentage) and A's recomputed credit earned for the taxable year 1963 is zero. The income tax imposed by chapter 1 of the Code on A for the taxable year 1963 is increased by \$1,400.

(d) *Reselection of used section 38 property.* (1) *Reselection.* If—

(i) Used section 38 property (as defined in § 1.42-3) the cost of which was taken into account in computing the taxpayer's qualified investment is disposed of, or otherwise ceases to be section 38 property with respect to the taxpayer,

before the close of the estimated useful life which was taken into account in computing such qualified investment, and

(ii) For the taxable year in which the property described in subdivision (i) of this subparagraph was placed in service, the sum of (a) the cost of used section 38 property placed in service by the taxpayer, and (b) the cost of used section 38 property apportioned to such taxpayer exceeded \$50,000,

then such taxpayer may treat the cost of any used section 38 property (regardless of its estimated useful life) which was not originally selected, under paragraph (c)(4) of § 1.48-3, to be taken into account in computing qualified investment for such taxable year (or previously reselected under this subparagraph) as having been selected (in accordance with the principles of paragraph (c)(4)(ii) of § 1.48-3) in place of the cost of the used section 38 property described in subdivision (i) of this subparagraph. Hereinafter such reselected property is referred to as "newly selected used section 38 property". For purposes of this subparagraph, the cost of used section 38 property apportioned to a taxpayer means the sum of the cost of used section 38 property apportioned to him by a trust, estate, or electing small business corporation (as defined in section 1371(b)), and his share of the cost of partnership used section 38 property, with respect to the taxable year of such trust, estate, corporation or partnership ending with or within such taxpayer's taxable year. In the case of a taxpayer to whom paragraph (c)(2) of § 1.48-3 applied for the taxable year in which the property described in subdivision (i) of this subparagraph was placed in service, a \$25,000 amount shall be substituted for the \$50,000 amount referred to in subdivision (ii)(b) of this subparagraph, and in the case of a member of an affiliated group (as defined in subparagraph (6) of § 1.48-3(e)) the amount apportioned to such member under paragraph (e) of § 1.48-3 shall be substituted for such \$50,000 amount.

(2) *Application of paragraph (a) of § 1.47-1.* (i) If a taxpayer treats, under subparagraph (1) of this paragraph, the cost of any used section 38 property which was not originally selected as having been selected in place of the cost of used section 38 property described in subparagraph (1)(i) of this paragraph, then, notwithstanding the provisions of § 1.47-2 (relating to "disposition" and "cessation"), paragraph (a) of § 1.47-1 shall not apply to the property described in subparagraph (1)(i) of this paragraph to the extent of the cost of the newly selected used section 38 property.

(ii) If the cost of the used section 38 property described in subparagraph (1)(i) of this paragraph exceeds the cost of the newly selected used section 38 property, then the property described in subparagraph (1)(i) of this paragraph shall cease to be section 38 property with respect to the taxpayer to the extent of such excess.

(iii) If the newly selected used section 38 property is disposed of, or otherwise

ceases to be section 38 property with respect to the taxpayer, before the close of the estimated useful life of the property described in subparagraph (1)(i) of this paragraph, then, unless he reselects other used section 38 property, paragraph (a) of § 1.47-1 shall apply with respect to such newly selected used section 38 property. For purposes of recomputing qualified investment with respect to such newly selected used section 38 property the actual useful life shall be deemed to be the period beginning with the date on which the property described in subparagraph (1)(i) of this paragraph was placed in service by the taxpayer and ending with the date of the disposition or cessation with respect to such newly selected used section 38 property. See paragraph (c) of § 1.47-1, relating to date placed in service and date of disposition or cessation.

(3) *Information requirement.* (i) If in any taxable year this paragraph applies to a taxpayer, such taxpayer shall attach to his income tax return for such taxable year a statement containing the information required by subdivision (ii) of this subparagraph.

(ii) The statement referred to in subdivision (i) of this subparagraph shall contain the following information:

(a) The taxpayer's name, address and taxpayer account number; and

(b) With respect to the originally selected used section 38 property and the newly selected used section 38 property, the month and year placed in service, cost, and estimated useful life.

(4) *Examples.* This paragraph may be illustrated by the following examples:

Example (1). (i) X Corporation purchased and placed in service on January 1, 1962, machines No. 1 and No. 2, which qualified as used section 38 property, each with a cost of \$50,000 and an estimated useful life of eight years. The aggregate cost of used section 38 property taken into account by X Corporation in computing its qualified investment for the taxable year 1962 could not exceed \$50,000; therefore, under paragraph (c)(4) of § 1.48-3, X selected the \$50,000 cost of machine No. 1 to be taken into account in computing its qualified investment for the taxable year 1962. The qualified investment with respect to machine No. 1 was \$50,000. For the taxable year 1962 X's credit earned of \$3,500 was allowed under section 38 as a credit against its liability for tax. On January 2, 1965, X Corporation sells machine No. 1 to Y Corporation.

(ii) Under subparagraph (1) of this paragraph, X Corporation treats the \$50,000 cost of machine No. 2 as having been selected to be taken into account in computing its qualified investment for the taxable year 1962 in place of the \$50,000 cost of machine No. 1. Therefore, under subparagraph (2) (i) of this paragraph, paragraph (a) of § 1.47-1 does not apply to the January 2, 1965, disposition of machine No. 1.

Example (2). (i) The facts are the same as in example (1) and in addition X Corporation, on December 2, 1966, sells machine No. 2 to Z Corporation.

(ii) Under subparagraph (2)(iii) of this paragraph, paragraph (a) of § 1.47-1 applies with respect to the December 2, 1966, disposition of machine No. 2. The actual useful life of machine No. 2 is four years and eleven months (that is, the period beginning on January 1, 1962, and ending on December 2, 1966). The recomputed qualified invest-

ment with respect to machine No. 2 is \$16,667 (\$50,000 cost multiplied by 33 1/3 percent applicable percentage) and X Corporation's recomputed credit earned for the taxable year 1962 is \$1,167. The income tax imposed by chapter 1 of the Code on X Corporation for the taxable year 1966 is increased by the \$2,333 decrease in its credit earned for the taxable year 1962 (that is, \$3,500 original credit earned minus \$1,167 recomputed credit earned).

Example (3). (i) The facts are the same as in example (1) except that machine No. 2 had a cost of \$30,000.

(ii) Under subparagraph (1) of this paragraph, X Corporation treats the \$30,000 cost of machine No. 2 as having been selected to be taken into account in computing its qualified investment for the taxable year 1962 in place of the \$50,000 cost of machine No. 1. Therefore, under subparagraph (2)(i) of this paragraph, paragraph (a) of § 1.47-1 does not apply to the January 2, 1965, disposition of machine No. 1 to the extent of \$30,000 of the \$50,000 cost of machine No. 1. However, under subparagraph (2)(ii) of this paragraph, paragraph (a) of § 1.47-1 applies to the January 2, 1965, disposition of machine No. 1 to the extent of \$20,000 (that is, \$50,000 cost of machine No. 1 minus \$30,000 cost of machine No. 2). The actual useful life of such \$20,000 portion of machine No. 1 is three years (that is, the period beginning on January 1, 1962, and ending on January 2, 1965). The recomputed qualified investment with respect to the \$20,000 portion of the cost of machine No. 1 is zero (\$20,000 portion of the cost multiplied by zero applicable percentage) and X Corporation's recomputed credit earned for the taxable year 1962 is \$2,100 (7 percent of \$30,000). The income tax imposed by chapter 1 of the Code on X Corporation for the taxable year 1965 is increased by the \$1,400 decrease in its credit earned for the taxable year 1962 (that is, \$3,500 original credit earned minus \$2,100 recomputed credit earned).

(e) *Transactions to which section 381(a) applies.* (1) *General rule.* Notwithstanding the provisions of § 1.47-2, relating to "disposition" and "cessation", paragraph (a) of § 1.47-1 shall not apply to a disposition of section 38 property in a transaction to which section 381(a) (relating to carryovers in certain corporate acquisitions) applies. If the section 38 property described in the preceding sentence is disposed of, or otherwise ceases to be section 38 property with respect to the acquiring corporation, before the close of the estimated useful life which was taken into account in computing the transferor corporation's qualified investment, then paragraph (a) of § 1.47-1 shall apply to the acquiring corporation with respect to such section 38 property. For purposes of recomputing qualified investment with respect to such property its actual useful life shall be the period beginning with the date on which it was placed in service by the transferor corporation and ending with the date of the disposition by, or cessation with respect to, the acquiring corporation.

(2) *Examples.* This paragraph may be illustrated by the following examples:

Example (1). (i) X Corporation, a wholly owned subsidiary of Y Corporation, acquired and placed in service on January 1, 1962, an item of section 38 property with a basis of \$12,000 and an estimated useful life of eight years. Both X and Y make their returns on the basis of a calendar year. The qualified

investment with respect to such item was \$12,000. For the taxable year 1962 X Corporation's credit earned of \$840 was allowed under section 38 as a credit against its liability for tax. On January 15, 1967, X Corporation is liquidated under section 332 and all of its properties, including the item of section 38 property, are transferred to Y Corporation. The bases of the properties in the hands of Y Corporation are determined under section 334(b)(1).

(ii) Under subparagraph (1) of this paragraph, paragraph (a) of § 1.47-1 does not apply to the January 15, 1967, transfer to Y Corporation.

Example (2). (i) The facts are the same as in example (1) and in addition on February 2, 1968, Y Corporation sells the item of section 38 property to Z Corporation.

(ii) Under subparagraph (1) of this paragraph, paragraph (a) of § 1.47-1 does not apply to the January 15, 1967, transfer to Y Corporation. However, paragraph (a) of § 1.47 applies to the February 2, 1968, sale of the property by Y Corporation. The actual useful life of the property is six years and one month (that is, the period beginning on January 1, 1962, and ending on February 2, 1968).

(f) *Mere change in form of conducting a trade or business.*—(1) *General rule.* (i) Notwithstanding the provisions of § 1.47-2, relating to "disposition" and "cessation", paragraph (a) of § 1.47-1 shall not apply to section 38 property which is disposed of, or otherwise ceases to be section 38 property with respect to the taxpayer, before the close of the estimated useful life which was taken into account in computing the taxpayer's qualified investment by reason of a mere change in the form of conducting the trade or business in which such section 38 property is used provided that the conditions set forth in subdivision (ii) of this subparagraph are satisfied.

(ii) The conditions referred to in subdivision (i) of this subparagraph are as follows:

(a) The section 38 property described in subdivision (i) of this subparagraph is retained as section 38 property in the same trade or business,

(b) The transferor (or in a case where the transferor is a partnership, estate, trust, or electing small business corporation, the partner, beneficiary, or shareholder) of such section 38 property retains a substantial interest in such trade or business;

(c) Substantially all the assets (whether or not section 38 property) necessary to operate such trade or business are transferred to the transferee to whom such section 38 property is transferred, and

(d) The basis of such section 38 property in the hands of the transferee is determined in whole or in part by reference to the basis of such section 38 property in the hands of the transferor. This subparagraph shall not apply to the transfer of section 38 property if paragraph (e) of this section, relating to transactions to which section 381 applies, applies with respect to such transfer.

(2) *Substantial interest.* For purposes of this paragraph, a transferor (or in a case where the transferor is a partnership, estate, trust, or electing small business corporation, the partner, benefi-

ary, or shareholder) shall be considered as having retained a substantial interest in the trade or business only if, after the change in form, his interest in such trade or business—

(i) Is substantial in relation to the total interest of all persons, or

(ii) Is equal to or greater than his interest prior to the change in form.

Thus, where a taxpayer owns a 5-percent interest in a partnership, and, after the incorporation of that partnership, the taxpayer retains at least a 5-percent interest in the corporation, the taxpayer will be considered as having retained a substantial interest in the trade or business as of the date of the change in form.

(3) *Property held for the production of income.* Subparagraph (1)(i) of this paragraph applies to section 38 property held for the production of income (within the meaning of section 167(a)(2)) as well as to section 38 property used in a trade or business.

(4) *Leased property.* In a case where a lessor of new section 38 property made a valid election, under § 1.48-4, to treat the lessee as having purchased such property for purposes of the credit allowed by section 38, in determining whether subparagraph (1)(i) of this paragraph applies to an assignment of the lease and transfer of possession of such property, the condition contained in subparagraph (1)(ii)(d) of this paragraph is not applicable.

(5) *Disposition or cessation.* (i) If section 38 property described in subparagraph (1)(i) of this paragraph is disposed of by the transferee, or otherwise ceases to be section 38 property with respect to the transferee, before the close of the estimated useful life which was taken into account in computing the qualified investment of the transferor (or in a case where the transferor is a partnership, estate, trust, or electing small business corporation, the qualified investment of the partners, beneficiaries, or shareholders) then under paragraph (a) of § 1.47-1 such property ceases to be section 38 property with respect to the transferor (or such partners, beneficiaries, or shareholders), and a recapture determination shall be made with respect to such property. For purposes of recomputing qualified investment with respect to such property, the actual useful life shall be the period beginning with the date on which it was placed in service by the transferor and ending with the date of the disposition by, or cessation with respect to, the transferee.

(ii) If in any taxable year the transferor (or in a case where the transferor is a partnership, estate, trust, or electing small business corporation, the partner, beneficiary, or shareholder) of the section 38 property described in subparagraph (1)(i) of this paragraph does not retain a substantial interest in the trade or business directly or indirectly (through ownership in other entities provided that such other entities' bases in such interest are determined in whole or in part by reference to the basis of such interest in the hands of the transferor) then, under paragraph (a) of § 1.47-1,

such property ceases to be section 38 property with respect to the transferor and he (or the partner, beneficiary, or shareholder) shall make a recapture determination. For purposes of recomputing qualified investment with respect to property described in this subdivision, its actual useful life shall be the period beginning with the date on which it was placed in service by the transferor and ending with the first date on which the transferor (or the partner, beneficiary, or shareholder) does not retain a substantial interest in the trade or business. Any taxpayer who seeks to establish his interest in a trade or business under the rule of this subdivision shall maintain adequate records to demonstrate his indirect interest in such trade or business after any such transfer or transfers.

(iii) In making a recapture determination under this subparagraph there shall be taken into account any prior recapture determinations with respect to the transferor in connection with the same property.

(iv) Notwithstanding subparagraph (1) of this paragraph and subdivision (ii) of this subparagraph in the case of a mere change in the form of a trade or business, if the interest of a taxpayer in the trade or business is reduced but such taxpayer has retained a substantial interest in such trade or business, paragraph (a)(2) of § 1.47-4 (relating to electing small business corporations), paragraph (a)(2) of § 1.47-5 (relating to estates or trusts) or paragraph (a)(2) of § 1.47-6 (relating to partnerships) shall apply, as the case may be.

(6) *Examples.* This paragraph may be illustrated by the following examples in each of which it is assumed that the transfer satisfies the conditions of subparagraph (1)(ii)(a), (c), and (d) of this paragraph.

Example (1). (i) On January 1, 1962, A, an individual, acquired and placed in service in his sole proprietorship an item of section 38 property with a basis of \$12,000 and an estimated useful life of eight years. The qualified investment with respect to such item was \$12,000. For the taxable year 1962 A's credit earned of \$840 was allowed under section 38 as a credit against his liability for tax. On March 15, 1963, A transfers all of the assets used in his sole proprietorship to X Corporation, a newly formed corporation, in exchange for 45 percent of the stock of X Corporation.

(ii) Under subparagraph (1)(i) of this paragraph, paragraph (a) of § 1.47-1 does not apply to the March 15, 1963, transfer to X Corporation.

Example (2). (i) The facts are the same as in example (1) and in addition on February 2, 1964, X Corporation sells the item of section 38 property to Y Corporation.

(ii) Under subparagraph (1)(i) of this paragraph, paragraph (a) of § 1.47-1 does not apply to the March 15, 1963, transfer to X Corporation. However, under subparagraph (5)(i) of this paragraph, paragraph (a) of § 1.47-1 applies to the February 2, 1964, sale of the item of section 38 property by X Corporation to Y Corporation. The actual useful life of the property is two years and one month (that is, the period beginning on January 1, 1962, and ending on February 2, 1964). The recomputed qualified investment with respect to such property is zero (\$12,000 basis multiplied by zero applicable percentage) and A's recomputed

credit earned for the taxable year 1962 is zero. The income tax imposed by chapter 1 of the Code on A for 1964 is increased by the \$840 decrease in his credit earned for the taxable year 1962 (that is, \$840 credit earned, minus zero recomputed credit earned).

Example (3). (1) On January 1, 1962, partnership ABC, which makes its returns on the basis of a calendar year, acquired and placed in service on item of section 38 property with a basis of \$20,000 and an estimated useful life of eight years. Partnership ABC has 10 partners who make their returns on the basis of a calendar year and share partnership profits equally. Each partner's share of the basis of such item of section 38 property is 10 percent, that is, \$2,000. On March 15, 1963, partnership ABC transfers all of the assets used in its trade or business to the X Corporation, a newly formed corporation, in exchange for all of the stock of X Corporation and immediately thereafter transfers 10 percent of such stock to each of the 10 partners.

(11) Under subparagraph (1)(i) of this paragraph, paragraph (a) of § 1.47-1 does not apply to the March 15, 1963 transfer by the ABC Partnership to X Corporation.

Example (4). (1) The facts are the same as in example (3) except that partnership ABC transfers 10 percent of the stock in X Corporation to each of 8 partners, 20 percent to partner A, and cash to partner B.

(11) Under subparagraph (1)(i) of this paragraph, with respect to all of the partners (including partner A) except partner B, paragraph (a) of § 1.47-1 does not apply to the March 15, 1963, transfer by the ABC Partnership to X Corporation. Paragraph (a) of § 1.47-1 applies with respect to partner B's \$2,000 share of the item of section 38 property. See paragraph (a)(1) of § 1.47-6.

Example (5). (1) X Corporation operates a manufacturing business and a separate personal service business. On January 1, 1962, X acquired and placed in service a truck, which qualified as section 38 property, in its manufacturing business. The truck had a basis of \$10,000 and an estimated useful life of 8 years. On February 10, 1965, X transfers all the assets used in its manufacturing business to Partnership XY in exchange for a 50-percent interest in such partnership.

(11) Under subparagraph (1)(i) of this paragraph, paragraph (a) of § 1.47-1 does not apply to the February 10, 1965, transfer to Partnership XY.

(g) **Sale-and-leaseback transactions.** Notwithstanding the provisions of § 1.47-2, relating to "disposition" and "cessation", paragraph (a) of § 1.47-1 shall not apply where section 38 property is disposed of and as part of the same transaction is leased back to the vendor even though gain or loss is recognized to the vendor-lessee and the property ceases to be subject to depreciation in his hands. If paragraph (a) of § 1.47-1 applies with respect to such property subsequent to the transaction, the actual useful life shall begin with the date on which such property was first placed in service by the vendor-lessee as owner.

PAR. 7. Section 1.47-4 is added to read as follows:

§ 1.47-4. Electing small business corporation.

(a) **In general.**—(1) **Disposition or cessation in hands of corporation.** If an electing small business corporation (as defined in section 1371(b)) or a former electing small business corporation disposes of any section 38 property (or if

any section 38 property otherwise ceases to be section 38 property in the hands of the corporation) before the close of the estimated useful life which was taken into account in computing qualified investment with respect to such property, a recapture determination shall be made with respect to each shareholder who is treated, under § 1.48-5, as a taxpayer with respect to such property. Each such recapture determination shall be made with respect to the pro rata share of the basis (or cost) of such property taken into account by such shareholder in computing his qualified investment. For purposes of each such recapture determination the actual useful life of such property shall be the period beginning with the date on which it was placed in service by the electing small business corporation and ending with the date of the disposition or cessation. In making a recapture determination under this subparagraph there shall be taken into account any prior recapture determinations made with respect to the shareholder in connection with the same property. For definition of "recapture determination" see paragraph (a)(1) of § 1.47-1.

(2) **Disposition of shareholder's interest.**—(i) If—

(a) The basis (or cost) of section 38 property is apportioned, under § 1.48-5, to a shareholder of an electing small business corporation who takes such basis (or cost) into account in computing his qualified investment, and

(b) After the end of the shareholder's taxable year in which such apportionment was taken into account and before the close of the estimated useful life of the property, such shareholder's proportionate stock interest in such corporation is reduced (for example, by a sale or redemption, or by the issuance of additional shares) below the percentage specified in subdivision (ii) of this subparagraph,

then, on the date of such reduction such section 38 property ceases to be section 38 property with respect to such shareholder to the extent of the actual reduction in such shareholder's proportionate stock interest. (For example, if \$100 of the basis of section 38 property was apportioned to a shareholder and if his proportionate stock interest is reduced from 60 percent to 30 percent (that is, 50 percent of his original interest), then such property shall be treated as having ceased to be section 38 property to the extent of \$50.) Accordingly, a recapture determination shall be made with respect to such shareholder. For purposes of such recapture determination the actual useful life of such property shall be the period beginning with the date on which it was placed in service by the electing small business corporation and ending with the date on which it is treated as having ceased to be section 38 property with respect to the shareholder. In making a recapture determination under this subparagraph there shall be taken into account any prior recapture determination made with respect to the

shareholder in connection with the same property.

(ii) The percentage referred to in subdivision (i)(b) of this subparagraph is 66⅔ percent of the shareholder's proportionate stock interest in the corporation on the date of the apportionment under § 1.48-5. However, once property has been treated under this subparagraph as having ceased to be section 38 property to any extent the percentage referred to shall be 33⅓ percent of the shareholder's proportionate stock interest in the corporation on the date of the apportionment under § 1.48-5.

(iii) In determining a shareholder's proportionate stock interest in a former electing small business corporation for purposes of this subparagraph, the shareholder shall be considered to own stock in such corporation which he owns directly or indirectly (through ownership in other entities provided such other entities' bases in such stock are determined in whole or in part by reference to the basis of such stock in the hands of the transferor. For example, if A, who owns all of the 100 shares of the outstanding stock of corporation X, a corporation which was formerly an electing small business corporation, transfers on November 1, 1966, 70 shares of X stock to corporation Y in exchange for 90 percent of the stock of Y in a transaction to which section 351 applies, then, for purposes of subdivision (i) of this subparagraph, A shall be considered to own 93 percent of the stock of X, 30 percent directly and 63 percent indirectly (i.e., 90 percent of 70). Any taxpayer who seeks to establish his interest in the stock of a former electing small business corporation under the rule of this subdivision shall maintain adequate records to demonstrate his indirect interest in the corporation after any such transfer or transfers.

(b) **Election of a small business corporation under section 1372.**—(1) **General rule.** If a corporation makes a valid election under section 1372 to be an electing small business corporation (as defined in section 1371(b)), then on the last day of the taxable year immediately preceding the first taxable year for which such election is effective, any section 38 property the basis (or cost) of which was taken into account in computing the corporation's qualified investment in taxable years prior to the first taxable year for which the election is effective (and which has not been disposed of or otherwise ceased to be section 38 property with respect to the corporation prior to such last day) shall be considered as having ceased to be section 38 property with respect to such corporation and § 1.47-1 shall apply. However, if the corporation and each of the persons who are shareholders of the corporation on the first day of the first taxable year for which the election under section 1372 is to be effective, or on the date of such election, whichever is later, execute the agreement specified in subparagraph (2) of this paragraph, § 1.47-1 shall not apply to any such section 38

property by reason of the election by the corporation under section 1372.

(2) *Agreement of shareholders and corporation.* (i) The agreement referred to in subparagraph (1) of this paragraph shall be signed by the shareholders and the corporation, and shall recite that, in the event the section 38 property described in subparagraph (1) of this paragraph is later disposed of by, or ceases to be section 38 property with respect to, the corporation during a taxable year of the corporation for which the election under section 1372 is effective, each such signer agrees (a) to notify the district director of such disposition or cessation, and (b) to be jointly and severally liable to pay to the district director an amount equal to the increase in tax provided by section 47. The amount of such increase shall be determined as if such property had ceased to be section 38 property as of the last day of the taxable year immediately preceding the first taxable year for which the election under section 1372 is effective, except that the actual useful life (within the meaning of paragraph (a) of § 1.47-1) of the property shall be considered to have ended on the date of the actual disposition by, or cessation in the hands of, the electing small business corporation.

(ii) The agreement shall set forth the name, address, and taxpayer account number of each party and the internal revenue district in which each such party files his or its income tax return for the taxable year which includes the last day of the corporation's taxable year immediately preceding the first taxable year for which the election under section 1372 is effective. The agreement may be signed on behalf of the corporation by any person who is duly authorized. The agreement shall be filed with the district director with whom the corporation files its income tax return for its taxable year immediately preceding the first taxable year for which the election under section 1372 is effective and shall be filed on or before the due date (including extensions of time) of such return. However, if the due date (including extensions of time) of such income tax return is on or before September 1, 1967, the agreement may be filed on or before December 31, 1967. For purposes of the two preceding sentences, the district director may, if good cause is shown, permit the agreement to be filed on a later date.

(c) *Examples.* This section may be illustrated by the following examples in each of which it is assumed that X Corporation, an electing small business corporation which makes its returns on the basis of the calendar year, acquired and placed in service on June 1, 1962, three items of section 38 property. The basis and estimated useful life of each item of section 38 property are as follows:

Asset No.	Basis	Estimated useful life
		Years
1.....	\$30,000	4
2.....	30,000	6
3.....	30,000	8

On December 31, 1962, X Corporation had 20 shares of stock outstanding which were owned equally by A and B who make their returns on the basis of a calendar year. Under § 1.48-5, the total bases of section 38 properties was apportioned to the shareholders of X Corporation as follows:

	Useful life category		
	4 to 6 years	6 to 8 years	8 years or more
Total bases.....	\$30,000	\$30,000	\$30,000
Shareholder A (10/20)....	15,000	15,000	15,000
Shareholder B (10/20)....	15,000	15,000	15,000

Assuming that during 1962 shareholders A and B did not place in service any section 38 property and that they did not own any interests in other electing small business corporations, partnerships, estates, or trusts, the qualified investment of each shareholder is \$30,000, computed as follows:

Basis	Applicable percentage	Qualified investment
\$15,000.....	33 1/4	\$5,000
\$15,000.....	66 2/3	10,000
\$15,000.....	100	15,000
		\$30,000

For the taxable year 1962, each shareholder's credit earned of \$2,100 (7 percent of \$30,000) was allowed under section 38 as a credit against his liability for tax.

Example (1). (i) On December 2, 1965, X Corporation sells asset No. 3 to Y Corporation.

(ii) The actual useful life of asset No. 3 is three years and six months. The recomputed qualified investment with respect to each shareholder's share of the basis of asset No. 3 is zero (\$15,000 share of basis multiplied by zero applicable percentage) and for the taxable year 1962 each shareholder's recomputed credit earned is \$1,050 (7 percent of \$15,000). The income tax imposed by chapter 1 of the Code on each of the shareholders for the taxable year 1965 is increased by the \$1,050 decrease in his credit earned for the taxable year 1962 (that is, \$2,100 original credit earned minus \$1,050 recomputed credit earned).

Example (2). (i) On December 3, 1964, shareholder A sells 5 of his 10 shares of stock in X Corporation to C, and on December 3, 1965, A sells his remaining 5 shares of stock to D. In addition, on January 2, 1966, X Corporation sells asset No. 3 to Y Corporation.

(ii) Under paragraph (a) (2) of this section, on December 3, 1964, 50 percent of the share of the basis of each of the three items of section 38 property ceases to be section 38 property with respect to shareholder A since immediately after the December 3, 1964, sale A's proportionate stock interest in X Corporation is reduced to 50 percent of the proportionate stock interest in X Corporation which he held on December 31, 1962. The actual useful life of the share of the bases of the section 38 properties which cease to be section 38 property with respect to A is two years and six months (that is, the period beginning with June 1, 1962, and ending with December 3, 1964). A's recomputed qualified investment with respect to such properties is \$15,000, computed as follows:

Basis	Applicable percentage	Recomputed qualified investment
\$7,500.....	33 1/4	\$2,500
\$7,500.....	66 2/3	5,000
\$7,500.....	100	7,500
		\$15,000

For the taxable year 1962 shareholder A's recomputed credit earned is \$1,050 (7 percent of \$15,000). The income tax imposed by chapter 1 of the Code on shareholder A for the taxable year 1964 is increased by the \$1,050 decrease in his credit earned for the taxable year 1962 (that is, \$2,100 original credit earned minus \$1,050 recomputed credit earned).

(iii) Under paragraph (a) (2) of this section, on December 3, 1965, the remaining 50 percent of the share of the basis of each of the three items of section 38 property ceases to be section 38 property with respect to shareholder A since immediately after the December 3, 1965, sale A's proportionate stock interest in X Corporation is reduced to zero. The actual useful life of the share of the bases of the section 38 properties which cease to be section 38 property with respect to A is three years and six months (that is, the period beginning with June 1, 1962, and ending with December 3, 1965). A's recomputed qualified investment with respect to such properties is zero. For the taxable year 1962 shareholder A's recomputed credit earned is zero. The income tax imposed by chapter 1 of the Code on shareholder A for the taxable year 1965 is increased by \$1,050 (that is, \$2,100 (\$2,100 original credit earned minus zero recomputed credit earned) reduced by the \$1,050 increase in tax for 1964).

(iv) The actual useful life of asset No. 3 which was sold on January 2, 1966, is three years and seven months. The recomputed qualified investment with respect to B's share of the basis of asset No. 3 is zero (\$15,000 share of basis multiplied by zero applicable percentage) and for the taxable year 1962, B's recomputed credit earned is \$1,050 (7 percent of \$15,000). The income tax imposed by chapter 1 of the Code on shareholder B for the taxable year 1966 is increased by the \$1,050 decrease in his credit earned for the taxable year 1962 (\$2,100 original credit earned minus \$1,050 recomputed credit earned). The sale of asset No. 3 on January 2, 1966, by X Corporation has no effect on A.

(d) *Termination or revocation of an election under section 1372.* Section 38 property shall not be considered to be disposed of or to have ceased to be section 38 property solely by reason of a termination or revocation of a corporation's election under section 1372.

Pan. 8. Section 1.47-5 is added to read as follows:

§ 1.47-5 Estates and trusts.

(a) *In general.*—(1) *Disposition or cessation in hands of estate or trust.* If an estate or trust disposes of any section 38 property (or if any section 38 property otherwise ceases to be section 38 property in the hands of the estate or trust) before the close of the estimated useful life which was taken into account in computing qualified investment with respect to such property, a recapture determination shall be made with respect to the estate or trust, and each beneficiary who is treated, under § 1.48-6, as

a taxpayer with respect to such property. Each such recapture determination shall be made with respect to the share of the basis (or cost) of such property taken into account by such estate or trust and such beneficiary in computing its or his qualified investment. For purposes of each such recapture determination the actual useful life of such property shall be the period beginning with the date on which it was placed in service by the estate or trust and ending with the date of the disposition or cessation. In making a recapture determination under this subparagraph with respect to a taxpayer there shall be taken into account any prior recapture determinations made with respect to such taxpayer in connection with the same property. For definition of "recapture determination" see paragraph (a) (1) of § 1.47-1.

(2) *Disposition of interest.* (i) If—

(a) The basis (or cost) of section 38 property is apportioned, under § 1.48-6, to an estate or trust which, or to a beneficiary of an estate or trust who, takes such basis (or cost) into account in computing his qualified investment, and

(b) After the date on which such section 38 property was placed in service by the estate or trust and before the close of the estimated useful life of the property, such estate's, trust's, or such beneficiary's proportionate interest in the income of the estate or trust is reduced (for example, by a sale, or by the terms of the estate or trust instrument) below the percentage specified in subdivision (ii) of this subparagraph,

then, on the date of such reduction, such section 38 property ceases to be section 38 property with respect to such estate, trust, or beneficiary to the extent of the actual reduction in such estate's, trust's, or beneficiary's proportionate interest in the income of the estate or trust. (For example, if \$100 of the basis of section 38 property was apportioned to a beneficiary and if his proportionate interest in the income of the estate or trust is reduced from 60 percent to 30 percent (that is, 50 percent of his original interest), then such property shall be treated as having ceased to be section 38 property to the extent of \$50). Accordingly, a recapture determination shall be made with respect to such estate, trust, or beneficiary. For purposes of such recapture determination the actual useful life of such property shall be the period beginning with the date on which it was placed in service by the estate or trust and ending with the date on which it is treated as having ceased to be section 38 property with respect to the estate, trust, or beneficiary. In making a recapture determination under this subparagraph there shall be taken into account any prior recapture determination made with respect to the estate, trust, or beneficiary in connection with the same property.

(ii) The percentage referred to in subdivision (i) (b) of this subparagraph is 66⅔ percent of the estate's, trust's, or beneficiary's proportionate interest in the income of the estate or trust for the taxable year of the apportionment under § 1.48-6. However, once property has

been treated under this subparagraph as having ceased to be section 38 property to any extent the percentage referred to shall be 33⅓ percent of the estate's, trust's, or beneficiary's proportionate interest in the income of the estate or trust for the taxable year of the apportionment under § 1.48-6.

(iii) In determining a beneficiary's proportionate interest in the income of an estate or trust for purposes of this subparagraph, the beneficiary shall be considered to own any interest in such an estate or trust which he owns directly or indirectly (through ownership in other entities provided such other entities' bases in such interest are determined in whole or in part by reference to the basis of such interest in the hands of the beneficiary). For example, if A, whose proportionate interest in the income of trust X is 30 percent, transfers all of such interest to corporation Y in exchange for all of the stock of Y in a transaction to which section 351 applies, then, for purposes of subdivision (i) of this subparagraph, A shall be considered to own a 30-percent interest in trust X. Any taxpayer who seeks to establish his interest in an estate or trust under the rule of this subdivision shall maintain adequate records to demonstrate his indirect interest in the estate or trust after any such transfer or transfers.

(b) *Examples.* Paragraph (a) of this section may be illustrated by the following examples in each of which it is assumed that XYZ Trust, which makes its returns on the basis of the calendar year, acquired and placed in service on June 1, 1962, three items of section 38 property. The basis and estimated useful life of each item of section 38 property are as follows:

Asset No.	Basis	Estimated useful life
		Years
1.....	\$30,000	4
2.....	30,000	6
3.....	30,000	8

For the taxable year 1962 the income of XYZ Trust is \$20,000, which is allocable equally to XYZ Trust and beneficiary A. Beneficiary A makes his returns on the basis of a calendar year. Under § 1.48-6, the total bases of the section 38 properties was apportioned to XYZ Trust and beneficiary A as follows:

	Useful life category		
	4 to 6 years	6 to 8 years	8 years or more
Total bases.....	\$30,000	\$30,000	\$30,000
(S10,000)			
XYZ Trust.....	15,000	15,000	15,000
Beneficiary A.....			
(S10,000)			
(S20,000)	15,000	15,000	15,000

Assuming that during 1962 beneficiary A did not place in service any section 38 property and that he did not own any interests in other estates, trusts, electing small business corporations, or partnerships, the qualified investment of XYZ Trust and of beneficiary A is \$30,000 each, computed as follows:

Basis	Applicable percentage	Qualified investment
\$15,000.....	33⅓	\$5,000
\$15,000.....	66⅔	10,000
\$15,000.....	100	15,000
		30,000

For the taxable year 1962, XYZ Trust and beneficiary A each had a credit earned of \$2,100 (7 percent of \$30,000). Each such credit earned was allowed under section 38 as a credit against the liability for tax.

Example (1). (i) On December 2, 1965, XYZ Trust sells asset No. 3 to X Corporation.

(ii) The actual useful life of asset No. 3 is three years and six months. The recomputed qualified investment with respect to XYZ Trust's and beneficiary A's share of the basis of asset No. 3 is zero (\$15,000 share of basis multiplied by zero applicable percentage) and for the taxable year 1962, XYZ Trust's and beneficiary A's recomputed credit earned is \$1,050 (7 percent of \$15,000). The income tax imposed by chapter 1 of the Code on XYZ Trust and on beneficiary A for the taxable year 1965 is increased by the \$1,050 decrease in his credit earned for the taxable year 1962 (that is, \$2,100 original credit earned minus \$1,050 recomputed credit earned).

Example (2). (i) On December 3, 1964, beneficiary A sells 50 percent of his interest in the income of XYZ Trust to B, and on December 3, 1965, A sells his remaining 50 percent interest to C. In addition, on January 2, 1966, XYZ Trust sells asset No. 3 to Y Corporation.

(ii) Under paragraph (a) (2) of this section, on December 3, 1964, 50 percent of the basis of each of the three items of section 38 property ceases to be section 38 property with respect to beneficiary A since immediately after the December 3, 1964, sale A's proportionate interest in the income of XYZ Trust is reduced to 50 percent of his proportionate interest in the income of XYZ Trust for the taxable year 1962. The actual useful life of the share of the bases of the section 38 properties which cease to be section 38 property with respect to A is two years and six months (that is, the period beginning with June 1, 1962, and ending with December 3, 1964). Beneficiary A's recomputed qualified investment with respect to such properties is \$15,000, computed as follows:

Basis	Applicable percentage	Qualified investment
\$7,500.....	33⅓	\$2,500
\$7,500.....	66⅔	5,000
\$7,500.....	100	7,500
		15,000

For the taxable year 1962 beneficiary A's recomputed credit earned is \$1,050 (7 percent of \$15,000). The income tax imposed by chapter 1 of the Code on beneficiary A for the taxable year 1964 is increased by the \$1,050 decrease in his credit earned for the taxable year 1962 (that is, \$2,100 original credit earned minus \$1,050 recomputed credit earned).

(iii) Under paragraph (a) (2) of this section, on December 3, 1965, the remaining 50 percent of the share of the basis of each of the three items of section 38 property ceases to be section 38 property with respect to beneficiary A since immediately after the December 3, 1965, sale A's proportionate interest in the income of XYZ Trust is reduced to zero. The actual useful life of the share of the basis of the section 38 properties which cease to be section 38 property

with respect to A is three years and six months (that is, the period beginning with June 1, 1962, and ending with December 3, 1965). A's recomputed qualified investment with respect to such properties is zero. For the taxable year 1962 beneficiary A's recomputed credit earned is zero. The income tax imposed by chapter 1 of the Code on beneficiary A for the taxable year 1965 is increased by \$1,050 (that is, \$2,100 (\$2,100 original credit earned minus zero recomputed credit earned), reduced by the \$1,050 increase in tax for 1964).

(iv) The actual useful life of asset No. 3 which was sold on January 2, 1966, is three years and seven months. The recomputed qualified investment with respect to XYZ Trust's share of the basis of asset No. 3 is zero (\$15,000 share of basis multiplied by zero applicable percentage) and for the taxable year 1962, XYZ Trust's recomputed credit earned is \$1,050 (7 percent of \$15,000). The income tax imposed by chapter 1 of the Code on XYZ Trust for the taxable year 1966 is increased by the \$1,050 decrease in its credit earned for the taxable year 1962 (\$2,100 original credit earned minus \$1,050 recomputed credit earned). The sale of asset No. 3 on January 2, 1966, has no effect on A.

PAR. 9. Section 1.47-6 is added to read as follows:

§ 1.47-6 Partnerships.

(a) *In general*—(1) *Disposition or cessation in hands of partnership.* If a partnership disposes of any partnership section 38 property (or if any partnership section 38 property otherwise ceases to be section 38 property in the hands of the partnership) before the close of the estimated useful life which was taken into account in computing qualified investment with respect to such property, a recapture determination shall be made with respect to each partner who is treated, under paragraph (f) of § 1.46-3, as a taxpayer with respect to such property. Each such recapture determination shall be made with respect to the share of the basis (or cost) of such property taken into account by such partner in computing his qualified investment. For purposes of each such recapture determination the actual useful life of such property shall be the period beginning with the date on which it was placed in service by the partnership and ending with the date of the disposition or cessation. In making a recapture determination under this subparagraph there shall be taken into account any prior recapture determinations made with respect to the partner in connection with the same property. For definition of "recapture determination" see paragraph (a) (1) of § 1.47-1.

(2) *Disposition of partner's interest.* (i) If—

(a) The basis (or cost) of partnership section 38 property is taken into account by a partner in computing his qualified investment, and

(b) After the date on which such partnership section 38 property was placed in service by the partnership and before the close of the estimated useful life of the property, such partner's proportionate interest in the general profits of the partnership (or in the particular item of property) is reduced (for example, by a sale, by a change in the partnership

agreement, or by the admission of a new partner) below the percentage specified in subdivision (ii) of this subparagraph, then, on the date of such reduction such partnership section 38 property ceases to be section 38 property with respect to such partner to the extent of the actual reduction in such partner's proportionate interest in the general profits of the partnership (or in the particular item of property). (For example, if \$100 of the basis of section 38 property was taken into account by a partner and if his proportionate interest in the general profits of the partnership is reduced from 60 percent to 30 percent (that is, 50 percent of his original interest), then such property shall be treated as having ceased to be section 38 property to the extent of \$50.) Accordingly, a recapture determination shall be made with respect to such partner. For purposes of such recapture determination the actual useful life of such property shall be the period beginning with the date on which it was placed in service by the partnership and ending with the date on which it is treated as having ceased to be section 38 property with respect to the partner. In making a recapture determination under this subparagraph there shall be taken into account any prior recapture determination made with respect to the partner in connection with the same property.

(ii) The percentage referred to in subdivision (i) (b) of this subparagraph is 66⅔ percent of the partner's proportionate interest in the general profits of the partnership (or in the particular item of property) for the year in which such property was placed in service. However, once property has been treated under this subparagraph as having ceased to be section 38 property to any extent the percentage referred to shall be 33⅓ percent of the partner's proportionate interest in the general profits of the partnership (or in the particular item of property) for the year in which such property was placed in service.

(iii) In determining a partner's proportionate interest in the general profits of a partnership for purposes of this subparagraph, the partner shall be considered to own any interest in such a partnership which he owns directly or indirectly (through ownership in other entities provided the other entities' bases in such interest are determined in whole or in part by reference to the basis of such interest in the hands of the partner). For example, if A, whose proportionate interest in the general profits of partnership X is 20 percent, transfers all of such interest to corporation Y in exchange for all of the stock of Y in a transaction to which section 351 applies, then, for purposes of subdivision (i) of this subparagraph, A shall be considered to own a 20-percent interest in partnership X. Any taxpayer who seeks to establish his interest in a partnership under the rule of this subdivision shall maintain adequate records to demonstrate his indirect interest in the partnership after any such transfer or transfers.

(b) *Examples.* Paragraph (a) of this section may be illustrated by the following examples in each of which it is as-

sumed that ABC Partnership, which makes its returns on the basis of the calendar year, acquired and placed in service on June 1, 1962, three items of section 38 property. The basis and estimated useful life of each item of section 38 property are as follows:

Asset No.	Basis	Estimated useful life
1.....	\$20,000	Years - 4
2.....	20,000	6
3.....	20,000	8

Partners A and B, who make their returns on the basis of a calendar year, share the profits and losses of ABC Partnership equally. Under paragraph (f) (2) of § 1.46-3, each partner's share of the basis of the partnership section 38 property is as follows:

Asset No.	Estimated useful life	Basis	Partners share of basis	
			A 50 percent	B 50 percent
1.....	Years 4	\$20,000	\$15,000	\$15,000
2.....	6	20,000	15,000	15,000
3.....	8	20,000	15,000	15,000

Assuming that during 1962 partners A and B did not place in service any section 38 property and that they did not own any interests in other partnerships, electing small business corporations, estates, or trusts, the qualified investment of each partner is \$30,000, computed as follows:

Partnership asset number	Share of basis	Applicable percentage	Qualified investment
1.....	\$15,000	33⅓	\$5,000
2.....	15,000	66⅔	10,000
3.....	15,000	100	15,000
			30,000

For the taxable year 1962, each partner's credit earned of \$2,100 (7 percent of \$30,000) was allowed under section 38 as a credit against his liability for tax.

Example (1). (i) On December 2, 1965, ABC Partnership sells asset No. 3 to X Corporation.

(ii) The actual useful life of asset No. 3 is three years and six months. The recomputed qualified investment with respect to each partner's share of the basis of asset No. 3 is zero (\$15,000 share of basis multiplied by zero applicable percentage) and for the taxable year 1962, each partner's recomputed credit earned is \$1,050 (7 percent of \$15,000). The income tax imposed by chapter 1 of the Code on each of the partners for the taxable year 1965 is increased by the \$1,050 decrease in his credit earned for the taxable year 1962 (that is, \$2,100 original credit earned minus \$1,050 recomputed credit earned).

Example (2). (i) On December 3, 1964, partner A sells one-half of his 50 percent interest in ABC Partnership to C, and on December 3, 1965, A sells the remaining one-half of his interest to D. In addition, on January 2, 1966, ABC Partnership sells asset No. 3 to X Corporation.

(ii) Under paragraph (a) (2) of this section, on December 3, 1964, 50 percent of the basis of each of the three items of section 38 property ceases to be section 38 property with respect to partner A since immediately after the December 3, 1964, sale A's proportionate

interest in the general profits of ABC Partnership is reduced to 50 percent of his proportionate interest in the general profits of ABC Partnership for 1962. The actual useful life of the share of the basis of each of the section 38 properties which cease to be section 38 property with respect to A is two years and six months (that is, the period beginning with June 1, 1962, and ending with December 3, 1964). Partner A's recomputed qualified investment with respect to such properties is \$15,000, computed as follows:

Partnership asset No.	Share of basis	Applicable percentage	Qualified investment
1-----	\$7,500	33 1/3	\$2,500
2-----	7,500	66 2/3	5,000
3-----	7,500	100	7,500
			15,000

For the taxable year 1962 partner A's recomputed credit earned is \$1,050 (7 percent of \$15,000). The income tax imposed by chapter 1 of the Code on partner A for the taxable year 1964 is increased by the \$1,050 decrease in his credit earned for the taxable year 1962 (that is, \$2,100 original credit earned minus \$1,050 recomputed credit earned).

(iii) Under paragraph (a) (2) of this section, on December 3, 1965, the remaining 50 percent of the share of the basis of each of the three items of section 38 property ceases to be section 38 property with respect to partner A since immediately after the December 3, 1965, sale A's proportionate interest in the general profits of ABC Partnership is reduced to zero. The actual useful life of the share of the bases of the section 38 properties which cease to be section 38 property with respect to A is three years and six months (that is, the period beginning with June 1, 1962, and ending with December 3, 1965). A's recomputed qualified investment with respect to such properties is zero. For the taxable year 1962 partner A's recomputed credit earned is zero. The income tax imposed by chapter 1 of the Code on partner A for the taxable year 1965 is increased by \$1,050 (that is, \$2,100 (\$2,100 original credit earned minus zero recomputed credit earned) reduced by the \$1,050 increase in tax for 1964).

(iv) The actual useful life of asset No. 3 which was sold on January 2, 1966, is three years and seven months. The recomputed qualified investment with respect to partner B's share of the basis of asset No. 3 is zero (\$15,000 share of basis multiplied by zero applicable percentage) and for the taxable year 1962, partner B's recomputed credit earned is \$1,050 (7 percent of \$15,000). The income tax imposed by chapter 1 of the Code on partner B for the taxable year 1966 is increased by the \$1,050 decrease in his credit earned for the taxable year 1962 (\$2,100 original credit earned minus \$1,050 recomputed credit earned). The sale of asset No. 3 on January 2, 1966, has no effect on A.

PAR. 10. Section 1.48-3 is amended by revising paragraph (d) to read as follows:

§ 1.48-3 Used section 38 property.

(d) The next paragraph is (e).

PAR. 11. Section 1.48-5 is amended by revising subparagraph (3) of paragraph (a) to read as follows:

§ 1.48-5 Electing small business corporations.

(a) *In general.* * * *

(3) A shareholder to whom the basis (or cost) of section 38 property is apportioned shall, for purposes of the credit allowed by section 38, be treated as the taxpayer with respect to such property. Thus, the total cost of used section 38 property apportioned to him by the electing small business corporation must be taken into account as cost of used section 38 property in determining whether the \$50,000 limitation on the cost of used section 38 property which may be taken into account by the shareholder in computing qualified investment for any taxable year is exceeded. If a shareholder takes into account in determining his qualified investment any portion of the basis (or cost) of section 38 property placed in service by an electing small business corporation and if such property subsequently is disposed of or otherwise ceases to be section 38 property in the hands of the corporation, such shareholder shall be subject to the provisions of section 47. See § 1.47-4.

PAR. 12. Section 1.48-6 is amended by revising subparagraph (3) of paragraph (a) and by adding a new subparagraph (5) at the end thereof. These revised and added provisions read as follows:

§ 1.48-6 Estates and trusts.

(a) *In general.* * * *

(3) A beneficiary to whom the basis (or cost) of section 38 property is apportioned shall, for purposes of the credit allowed by section 38, be treated as the taxpayer with respect to such property. Thus, the total cost of used section 38 property apportioned to him by the estate or trust must be taken into account as cost of used section 38 property in determining whether the \$50,000 limitation on the cost of used property which may be taken into account by the beneficiary in computing qualified investment for any taxable year is exceeded. If a beneficiary takes into account in determining his qualified investment any portion of the basis (or cost) of section 38 property placed in service by an estate or trust and if such property subsequently is disposed of or otherwise ceases to be section 38 property in the hands of estate or trust, such beneficiary shall be subject to the provisions of section 47. See § 1.47-5.

(5) If during the taxable year of an estate or trust a beneficiary's interest in the income of such estate or trust terminates, the basis (or cost) of section 38 property placed in service by such estate or trust after such termination shall not be apportioned to such beneficiary.

PAR. 13. Section 1.48-7 is amended by revising subparagraph (2) (iv) of paragraph (a) to read as follows:

§ 1.48-7 Adjustment to basis.

(a) *Reduction of basis; general.* * * *

(2) *Special rules.* * * *

(iv) The basis of section 38 property, which is disposed of or otherwise ceases to be section 38 property in the taxable year in which it is placed in service (except where § 1.47-3 applies), shall not be reduced. See paragraph (a) (2) of § 1.46-3.

PAR. 14. There is inserted immediately after § 1.1372-5 the following new section:

§ 1.1372-6 Treatment of section 38 property of a corporation electing to be a small business corporation.

See paragraph (b) of § 1.47-4 for rules relating to the treatment of section 38 property of a corporation which makes an election under section 1372 to be an electing small business corporation.

(Secs. 38(b) (76 Stat. 963; 26 U.S.C. 38) and 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954)

[F.R. Doc. 67-11818; Filed, Oct. 9, 1967; 8:45 a.m.]

Title 29—LABOR

Chapter XIII—Bureau of Labor Standards, Department of Labor

SHIP REPAIRING, SHIPBUILDING, AND SHIPBREAKING

Safety and Health Regulations; Miscellaneous Amendments

On May 30, 1967, a proposal to amend the Safety and Health Regulations for Ship Repairing, Shipbuilding, and Shipbreaking, under section 41 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 941) was published in the FEDERAL REGISTER (32 F.R. 7859). Interested persons were provided opportunity to submit data, views, or argument both orally and in writing in regard to the proposals.

After consideration of all relevant matter presented by interested persons, I have decided to and do hereby adopt the proposed amendments, with certain changes, as follows:

In Part 1501—Safety and Health Regulations for Ship Repairing:

1. In § 1501.5 the address for the American Society of Mechanical Engineers is changed to "345 East 47th Street, New York, N.Y. 10017." In addition, the reference "§ 1501.11(a) (6)" in Threshold Limit Values is changed to "§ 1501.11 (a) (3) and (b) (3)."

2. Paragraph (a) (1) of § 1501.10 is changed by adding the reference "and 1501.25a) (5)," after "§ 1501.24(b) (8)."

3. In paragraph (a) (2) of § 1501.10, the abbreviation "N.F.P.A." is changed by spelling it out as "National Fire Protection Association."

4. In paragraph (b) (1) of § 1501.10, the abbreviation "N.F.P.A." is changed by spelling it out as "National Fire Protection Association." In addition, the sentence is terminated after the number § 1501.13.

5. Paragraph (b) (3) of § 1501.10 is changed by omitting the word "and" before the letter "D" and adding the phrase ", and H" after the letter "D."

6. Paragraph (b) (5) of § 1501.10 is changed by omitting the word "and" before the letter "D" and adding the phrase ", and H" after the letter "D."

7. Paragraph (c) (1) of § 1501.10 is changed by adding the reference "and 1501.25(a) (5)," after "§ 1501.24(b) (8)."

8. In paragraph (c) (3) of § 1501.10, the reference "§ 1501.11(a) (3) (ii)" is changed to "§ 1501.11(b) (1) (ii)."

9. Section 1501.11 is changed in its entirety.

10. In paragraph (a) of § 1501.12, the reference "§ 1501.11(a) (1) (i) through (iv)" is changed to "§ 1501.11 (a) (1) (i) and (ii), and (b) (1) (i) through (iii)."

11. Paragraph (d) of § 1501.12 is changed by adding the word "and" before the word "jet-type," and the word "all" before the word "duct."

12. Paragraph (e) of § 1501.12 is changed by adding the word "Portable" before the word "air" and the word "also" before the word "be" in the third sentence.

13. Paragraph (a) (4) of § 1501.24 is changed by adding the word "and" before the word "jet-type" and the word "all" before the word "duct."

14. Paragraph (b) (5) of § 1501.24 is changed by adding the word "Portable" before the word "air" in the third sentence.

15. Paragraph (a) (1) (vi) of § 1501.31 is changed by omitting the words "or for" before the word "blowing" and adding the phrase ", or for cleaning the work area," at the end of the sentence.

16. Paragraph (b) of § 1501.47 is changed by adding the phrase ", except for the initial and final welding or burning operation to start or complete a job, such as the erection and dismantling of hung scaffolding, or other similar, non-repetitive jobs of brief duration," at the end of the last sentence.

17. In paragraph (c) of § 1501.76, the phrase "100 parts per million (0.01%)." is changed to the phrase "50 parts per million (0.005%)."

In Part 1502—Safety and Health Regulations for Shipbuilding:

1. In § 1502.5 the address for the American Society of Mechanical Engineers is changed to "345 East 47th Street, New York, N.Y. 10017."

2. Paragraph (a) (1) of § 1502.10 is changed by adding the reference "and 1502.25(a) (5)," after "§ 1502.24(b) (8)."

3. In paragraph (a) (2) of § 1502.10, the abbreviation "N.F.P.A." is changed by spelling it out as "National Fire Protection Association."

4. In paragraph (b) (1) of § 1502.10, the abbreviation "N.F.P.A." is changed by spelling it out as "National Fire Protection Association."

5. Paragraph (b) (3) of § 1502.10 is changed by omitting the word "and" before the letter "D" and adding the phrase ", and H" after the letter "D."

6. Paragraph (b) (5) of § 1502.10 is changed by omitting the word "and" before the letter "D" and adding the phrase ", and H" after the letter "D."

7. Paragraph (c) (1) of § 1502.10 is changed by adding the reference "and 1502.25(a) (5)," after "§ 1502.24(b) (8)."

8. Paragraph (a) (4) of § 1502.24 is changed by adding the word "and" before the word "jet-type" and the word "all" before the word "duct."

9. Paragraph (b) (5) of § 1502.24 is changed by adding the word "Portable" before the word "air" in the third sentence.

10. Paragraph (a) (1) (vi) of § 1502.31 is changed by omitting the words "or for" before the word "blowing" and adding the phrase ", or for cleaning the work area," at the end of the sentence.

11. Paragraph (b) of § 1502.47 is changed by adding the phrase ", except for the initial and final welding or burning operation to start or complete a job, such as the erection and dismantling of hung scaffolding, or other similar, non-repetitive jobs of brief duration," at the end of the last sentence.

12. In paragraph (c) of § 1502.76, the phrase "100 parts per million (0.01%)." is changed to the phrase "50 parts per million (0.005%)."

In Part 1503—Safety and Health Regulations for Shipbreaking:

1. In § 1503.5, the reference "§ 1503.11 (a) (6) in Threshold Limit Values is changed to "§ 1503.11 (a) (3) and (b) (3)."

2. Paragraph (a) (1) of § 1503.10 is changed by omitting the word "and" before the letter "D" in two places and adding the phrase ", and H" before the letter "D" in the same places.

3. In paragraph (a) (2) of § 1503.10, the abbreviation "N.F.P.A." is changed by spelling it out as "National Fire Protection Association."

4. In paragraph (b) (1) of § 1503.10, the abbreviation "N.F.P.A." is changed by spelling it out as "National Fire Protection Association."

5. Paragraph (b) (3) of § 1503.10 is changed by omitting the word "and" before the letter "D" and adding the phrase ", and H" after the letter "D."

6. Paragraph (b) (5) of § 1503.10 is changed by omitting the word "and" before the letter "D" and adding the phrase ", and H" after the letter "D."

7. Paragraph (c) (1) of § 1503.10 is changed by omitting the word "and" before the letter "D" and adding the phrase ", and H" after the letter "D."

8. Section 1503.11 is changed in its entirety.

9. In paragraph (a) of § 1503.12, the reference "§ 1503.11(a) (1) (i) through (iii) is changed to "§ 1503.11 (a) (1) (i) and (ii), and (b) (1) (i) and (ii)."

10. Paragraph (d) of § 1503.12 is changed by adding the word "and" before the word "jet-type," and the word "all" before the word "duct."

11. Paragraph (e) of § 1503.12 is changed by adding the word "Portable" before the word "air," and the word "also" before the word "be" in the third sentence.

12. Paragraph (a) (1) (vi) of § 1503.31 is changed by omitting the words "or for" before the word "blowing" and adding the phrase ", or for cleaning the work area," at the end of the sentence.

13. In paragraph (c) of § 1503.76, the phrase "100 parts per million (0.01%)." is changed to the phrase "50 parts per million (0.005%)."

These amendments shall become effective on November 9, 1967.

Signed at Washington, D.C., this 26th day of September 1967.

NELSON M. BORTZ,
Director,
Bureau of Labor Standards.

PART 1501—SAFETY AND HEALTH REGULATIONS FOR SHIP REPAIRING

Subpart A—General Provisions

1. Section 1501.5 is amended to read as follows:

§ 1501.5 Reference specifications, standards, and codes.

Specifications, standards, and codes of agencies of the U.S. Government, to the extent specified in the text, form a part of the regulations of this part. In addition, under the authority vested in the Secretary under the Act, the specifications, standards, and codes of organizations which are not agencies of the U.S. Government, in effect on the date of the promulgation of the regulations of this part as listed below, to the extent specified in the text, form a part of the regulations of this part:

National Fire Protection Association, 60 Batterymarch Street, Boston, Mass. 02110, Subpart B § 1501.13(a).

Underwriters' Laboratories, Inc., 207 East Ohio Street, Chicago, Ill. 60611, Subpart B, § 1501.12 (b) and (f); Subpart C, §§ 1501.24(b) (7), 1501.25(a) (4); Subpart H, § 1501.72(a).

United States of America Standard Safety Code for Portable Wood Ladders, A14.1-1959, United States of America Standards Institute, Inc., 10 East 40th Street, New York, N.Y. 10016, Subpart E, § 1501.42(a) (6).

United States of America Standard Safety Code for Portable Metal Ladders, A14.2-1959, United States of America Standards Institute, Inc., 10 East 40th Street, New York, N.Y. 10016, Subpart E, § 1501.42(a) (4).

United States of America Standard Safety Code for Head, Eye, and Respiratory Protection, Z2.1-1959, United States of America Standards Institute, Inc., 10 East 40th Street, New York, N.Y. 10016, Subpart I, §§ 1501.81(a) (1), 1501.83(b).

American Society of Mechanical Engineers, Boiler and Pressure Vessel Code, Section VIII, Rules for Construction of Unfired Pressure Vessels, American Society of Mechanical Engineers, 345 East 47th Street, New York, N.Y. 10017, Subpart E, § 1501.101 (a).

Threshold Limit Values, American Conference of Governmental Industrial Hygienists, 1014 Broadway, Cincinnati, Ohio 45202, Subpart B, § 1501.11 (a) (3) and (b) (3); Subpart C, § 1501.21(b).

United States of America Standards Safety Code for the Use, Care, and Protection of Abrasive Wheels, B7.1-1964, United States of America Standards Institute, Inc., 10 East 40th Street, New York, N.Y. 10016, Subpart H, § 1501.74(c).

2. The title to Subpart B is amended to read as follows:

Subpart B—Explosive and Other Dangerous Atmospheres

3. In §1501.10 paragraphs (a) (1) and (2), (b) (1), (3), and (5), and (c) (1) and (3) are amended to read as follows:

§ 1501.10 Competent person.

(a) *Designation.* (1) For the purposes of Subparts B, C, D, and H of this part, except for §§ 1501.24 (b) (8) and 1501.25 (a) (5), one or more competent persons shall be designated by the employer in accordance with the applicable requirements of this section unless the requirements of Subparts B, C, D, and H of this part are always carried out by a National Fire Protection Association Certified Marine Chemist.

(2) The employer shall indicate on U.S. Department of Labor Form MAR-8, "Designation of Competent Person" either those employees designated as competent persons or that the prescribed functions of such persons are always carried out by a National Fire Protection Association Certified Marine Chemist in addition to his professional duties. When additions or changes are made in the personnel so designated, a new Form MAR-8 shall be executed. A copy of this executed form shall be forwarded to the nearest office of the Bureau of Labor Standards.

(b) *Criteria.* The following criteria shall guide the employer in designating employees as competent persons:

(1) Ability to understand the meaning of designations on certificates and of any qualifications relating thereto and to carry out any instructions, either written or oral, left by the National Fire Protection Association Certified Marine Chemist or person authorized by the U.S. Coast Guard referred to in § 1501.13.

(3) Familiarity with and understanding of Subparts B, C, D, and H of this part.

(5) Capability to perform the tests and inspections required by Subparts B, C, D, and H of this part and to write the required logs.

(c) *Logging of inspections and tests.*

(1) When tests and inspections required to be performed by a competent person by any provisions of Subparts B, C, D, and H of this part, except those referred to in §§ 1501.24(b) (8) and 1501.25(a) (5), are made, a record of the locations, operations performed and date, time, and results of the tests and any instructions resulting therefrom shall be recorded on U.S. Department of Labor Form MAR-9, "Log of Inspections and Tests by Competent Person." A separate form shall be used for each vessel on which tests and inspections are made.

(3) A copy of any certificate issued in accordance with § 1501.13 and of any instructions issued by the National Fire Protection Association Certified Marine Chemist shall be kept on file with the log for a period of at least 3 months from the date of the completion of the job. The certificate and instructions issued by the person doing the fumigation referred to

in § 1501.11(b) (1) (ii) shall also be kept on file for a period of at least 3 months from the date of the completion of the job.

4. Section 1501.11 is amended to read as follows:

§ 1501.11 Precautions before entering.

(a) *Flammable atmospheres and residues.* (1) Before employees are initially permitted to enter any of the ship's spaces designated in subdivisions (i) and (ii) of this subparagraph, the atmosphere within the space to be entered shall be tested by a competent person to determine the concentration of flammable vapors or gases within the space.

(i) Cargo spaces or other spaces containing or having last contained combustible or flammable liquids or gases in bulk.

(ii) Spaces immediately adjacent to those described in subdivision (i) of this subparagraph.

(2) If the tests indicate that the atmosphere in the space to be entered contains a concentration of flammable vapor or gas greater than 10 percent of the lower explosive limit, the space shall be ventilated to reduce the concentration below 10 percent of the lower explosive limit before men are permitted to enter.

(3) If the atmosphere in the space to be entered is found to contain a concentration of flammable vapor or gas below the level immediately dangerous to life as defined in § 1501.82(b) (1), but above the threshold limit value, employees shall be protected in accordance with the requirements of § 1501.82 (a), and (c), (d), or (e), whichever is applicable.

(b) *Toxic atmospheres and residues.* (1) Before employees are initially permitted to enter any of the ship's spaces designated in subdivisions (i), (ii), and (iii) of this subparagraph, the atmosphere in the space to be entered shall be tested for toxic atmospheric contaminants, and the space inspected for the presence of toxic or corrosive residues by a Marine Chemist, Industrial Hygienist or other person qualified to make these tests and inspections.

(i) Cargo spaces or other spaces containing or having last contained bulk liquids, gases, or solids of a toxic, corrosive, or irritant nature.

(ii) Spaces which have been fumigated.

(iii) Spaces immediately adjacent to those described in subdivisions (i) and (ii) of this subparagraph.

(2) If the tests indicate that the atmosphere in the space to be entered contains a concentration of toxic contaminants above the level which is immediately dangerous to life, the space shall be ventilated to reduce the concentration below the level immediately dangerous to life as defined in § 1501.82(b) (1).

(3) If the atmosphere in the space to be entered is found to contain a concentration of toxic contaminants below the level immediately dangerous to life as defined in § 1501.82(b) (1), but above the threshold limit value, employees shall be protected in accordance with the re-

quirements of § 1501.82 (a), and (c), (d), or (e), whichever is applicable.

(4) The person qualified to make the tests and inspections referred to in subparagraph (1) of this paragraph shall make a record of the tests, inspections and instructions pertaining to subparagraph (3) of paragraph (a) of this section and subparagraphs (2) and (3) of this paragraph on U.S. Department of Labor Form MAR-9, which shall be available for inspection and kept on file in accordance with § 1501.10(c) (2).

(c) *Oxygen deficient atmospheres.* (1) Before employees are initially permitted to enter any of the ship's spaces designated in subdivisions (i) through (v) of this subparagraph, the atmosphere in the spaces to be entered shall be tested by a competent person with an oxygen indicator or other suitable device to ensure that it contains at least 16.5 percent oxygen.

(i) Spaces in which the tests required by paragraphs (a) and (b) of this section indicate that no flammable or toxic contaminants are present in the atmosphere.

(ii) Compartments which have been sealed.

(iii) Spaces which have been coated and closed up.

(iv) Nonventilated compartments which have been freshly painted.

(v) Cargo spaces containing cargoes or residues of cargoes which absorb oxygen, such as scrap iron, fresh fruit and molasses, and various vegetable drying oils in bulk.

(2) If the tests indicate that the atmosphere in the space to be entered contains less than 16.5 percent oxygen, the space shall be ventilated until tests indicate an oxygen content above this level.

(d) *Exceptions.* In emergencies and in cases of work of brief duration necessary to accomplish the ventilation required or to start operations, work may be performed in atmospheres containing concentrations of flammable contaminants above the upper explosive limit or otherwise immediately dangerous to life, provided employees are protected in accordance with the requirements of § 1501.82 (a) and (b).

5. In § 1501.12 the introductory text of paragraph (a) and paragraphs (b) and (d) are amended, and paragraphs (e), (f), and (g) are added to read as follows:

§ 1501.12 Cleaning and other cold work.

(a) Employees shall be permitted to perform manual cleaning to remove residue materials, scale, and debris or to perform other cold work in spaces described in § 1501.11 (a) (1) (i) and (ii) and (b) (1) (i) through (iii) before they have been certified as gas free only under the following conditions:

(b) Only approved explosion-proof, self-contained, battery-fed, portable lamps shall be used in spaces described in paragraph (a) of § 1501.13 before the spaces have been certified as "Safe for Men." Battery-fed, portable lamps bearing the approval of the Underwriters' Laboratories for use in Class I, Group D

atmospheres, or approved as permissible by the U.S. Bureau of Mines, and such lamps listed by the U.S. Coast Guard as approved for such use are deemed to meet the requirements of this paragraph.

(d) The metallic parts of air moving devices, including fans, blowers, and jet-type air movers, and all duct work shall be electrically bonded to the vessel's structure.

(e) All motors and control equipment shall be of the explosion-proof type. Fans shall have nonferrous blades. Portable air ducts shall also be of nonferrous materials. All motors and associated control equipment shall be properly maintained and grounded.

(f) In spaces described in paragraph (a) of § 1501.13 which have been certified "Safe for Men," either battery lamps or explosion-proof lights, approved by the Underwriters' Laboratories for use in Class I, Group D atmospheres, or approved as permissible by the U.S. Bureau of Mines or the U.S. Coast Guard, shall be used, provided the lights are mounted to the space openings from the exterior, or suspended within the space with the cables so led as to protect them from injury.

(g) In spaces certified "Safe for Fire" nonexplosion proof lights may be used.

6. In § 1501.13 paragraphs (b) and (c) are amended to read as follows:

§ 1501.13 Certification before hot work is begun.

(b) In dry cargo holds for which a Marine Chemist's certificate is not required by paragraph (a) (2) (ii) of this section, hot work may be performed only after a competent person has carefully examined the hold and found it to be free of flammable liquids, gases, and vapors. If flammable liquids, gases, or vapors are found, hot work shall not be performed within the space until the flammable liquids, gases, or vapors have been removed and a test indicates that the space is safe for fire.

(c) Before hot work is performed in engine room and boiler room spaces of any vessel for which a Marine Chemist's certificate is not required by the provision of paragraph (a) of this section or in fuel tank and engine compartments of boats, the bilges shall be inspected and tested by a competent person to ensure that they are free of flammable liquids, gases, and vapors. If flammable liquids, gases, or vapors are found, hot work shall not be performed within the space until the flammable liquids, gases, or vapors have been removed and a test indicates that the space is safe for fire.

7. In § 1501.14 paragraphs (c) and (d) are amended to read as follows:

§ 1501.14 Maintaining gas free conditions.

(c) The employer shall inform masters and chief engineers of vessels of the provisions of this section and shall confirm that they are aware of their responsibilities for seeing that their crews

understand and obey all warning signs, tags, and the limitations stated on the marine chemist's certificates.

(d) When conditions in a tank are such that there is a possibility of hazardous vapor being released from residues or other sources after a marine chemist's certificate has been issued, a competent person shall make tests to insure that the gas-free condition is maintained irrespective of whether hot work is being performed in the tank. When the competent person finds that atmospheric conditions have altered, work shall be stopped and a new marine chemist's certificate in accordance with the requirements of § 1501.13(a) shall be obtained before work is resumed.

Subpart C—Surface Preparation and Preservation

8. Section 1501.21 is amended to read as follows:

§ 1501.21 Toxic cleaning solvents.

(a) When toxic solvents are used, the employer shall employ one or more of the following measures to safeguard the health of employees exposed to these solvents.

(1) The cleaning operation shall be completely enclosed to prevent the escape of vapor into the working space.

(2) Either natural ventilation or mechanical exhaust ventilation shall be used to remove the vapor at the source and to dilute the concentration of vapors in the working space to a concentration which is safe for the entire work period.

(3) Employees shall be protected against toxic vapors by suitable respiratory protective equipment in accordance with the requirements of § 1501.82 (a) and (c), and, where necessary, against exposure of skin and eyes to contact with toxic solvents and their vapors by suitable clothing and equipment.

(b) The principles in the threshold limit values to which attention is directed in § 1501.5 will be used by the Department of Labor in enforcement proceedings in defining a safe concentration of air contaminants.

(c) When flammable solvents are used, precautions shall be taken in accordance with the requirements of § 1501.25.

9. In § 1501.23 paragraph (c) (1) (iv) is added to read as follows:

§ 1501.23 Mechanical paint removers.

(c) Abrasive blasting—(1) Equipment.

(iv) Dead man control. A dead man control device shall be provided at the nozzle end of the blasting hose either to provide direct cutoff or to signal the pot tender by means of a visual and audible signal to cut off the flow, in the event the blaster loses control of the hose. The pot tender shall be available at all times to respond immediately to the signal.

10. In § 1501.24 paragraphs (a) (4), (b) (5), (13), and (14) are amended to read as follows:

§ 1501.24 Painting.

(a) Paints mixed with toxic vehicles or solvents. * * *

(4) The metallic parts of air moving devices, including fans, blowers, and jet-type air movers, and all duct work shall be electrically bonded to the vessel's structure.

(b) Paints and tank coatings dissolved in highly volatile, toxic, and flammable solvents. * * *

(5) All motors and control equipment shall be of the explosion-proof type. Fans shall have nonferrous blades. Portable air ducts shall also be of nonferrous materials. All motors and associated control equipment shall be properly maintained and grounded.

(13) All employees continuously in a compartment in which such painting is being performed, shall be protected by air line respirators in accordance with the requirements of § 1501.82(a) and by suitable protective clothing. Employees entering such compartments for a limited time shall be protected by filter cartridge type respirators in accordance with the requirements of § 1501.82 (a) and (e).

(14) All employees doing exterior paint spraying with such paints shall be protected by suitable filter cartridge type respirators in accordance with the requirements of § 1501.82 (a) and (e) and by suitable protective clothing.

Subpart D—Welding, Cutting, and Heating

11. In § 1501.31 paragraph (a) (1) (vi) is amended to read as follows:

§ 1501.31 Ventilation and protection in welding, cutting, and heating.

(a) Mechanical ventilation; requirements. (1) * * *

(vi) Oxygen shall not be used for ventilation purposes, comfort cooling, blowing dust or dirt from clothing, or for cleaning the work area.

12. In § 1501.32 paragraph (e) is amended and paragraphs (h) and (i) are added to read as follows:

§ 1501.32 Fire prevention.

(e) When the welding, cutting, or heating operation is such that normal fire prevention precautions are not sufficient, additional personnel shall be assigned to guard against fire while the actual welding, cutting, or heating operation is being performed and for a sufficient period of time after completion of the work to insure that no possibility of fire exists. Such personnel shall be instructed as to the specific anticipated fire hazards and how the fire fighting equipment provided is to be used.

(h) Vaporizing liquid extinguishers shall not be used in enclosed spaces.

(i) Except when the contents are being removed or transferred, drums, pails, and other containers which contain or have contained flammable liquids shall be

kept closed. Empty containers shall be removed to a safe area apart from hot work operations, or open flames.

13. In § 1501.35 paragraph (a) (9), titles to paragraphs (e) and (g), and paragraphs (e) (1), (2), and (3) are amended, and paragraphs (e) (4) and (5) and (g) (2) and (3) are added to read as follows:

§ 1501.35 Gas welding and cutting.

(a) *Transporting, moving, and storing compressed gas cylinders.* * * *

(9) Acetylene cylinders shall be secured in an upright position at all times except, if necessary, for short periods of time while cylinders are actually being hoisted or carried.

(e) *Fuel gas and oxygen manifolds.*

(1) Fuel gas and oxygen manifolds shall bear the name of the substance they contain in letters at least one (1) inch high which shall be either painted on the manifold or on a sign permanently attached to it.

(2) Fuel gas and oxygen manifolds shall be placed in safe and accessible locations in the open air. They shall not be located within enclosed spaces.

(3) Manifold hose connections, including both ends of the supply hose that lead to the manifold, shall be such that the hose cannot be interchanged between fuel gas and oxygen manifolds and supply header connections. Adapters shall not be used to permit the interchange of hose. Hose connections shall be kept free of grease and oil.

(4) When not in use, manifold and header hose connections shall be capped.

(5) Nothing shall be placed on top of a manifold, when in use, which will damage the manifold or interfere with the quick closing of the valves.

(g) *Torches.* * * *

(2) Torches shall be inspected at the beginning of each shift for leaking shut-off valves, hose couplings, and tip connections. Defective torches shall not be used.

(3) Torches shall be lighted by friction lighters or other approved devices, and not by matches or from hot work.

14. In § 1501.36 paragraph (a) (2) is amended to read as follows:

§ 1501.36 Arc welding and cutting.

(a) *Manual electrode holders.* * * *

(2) Any current carrying parts passing through the portion of the holder which the arc welder or cutter grips in his hand, and the outer surfaces of the jaws of the holder, shall be fully insulated against the maximum voltage encountered to ground.

Subpart E—Scaffolds, Ladders, and Other Working Surfaces

15. In § 1501.41 paragraphs (a) (6), (1) and (2) and (3) are amended to read as follows:

§ 1501.41 Scaffolds or staging.

(a) *General requirements.* * * *

(6) Barrels, boxes, cans, loose bricks, or other unstable objects shall not be used as working platforms or for the support of planking intended as scaffolds or working platforms.

(1) *Backrails and toeboards.* * * *

(2) Rails shall be of 2 x 4 inch lumber, flat bar or pipe. When used with rigid supports, taut wire or fiber rope of adequate strength may be used. If the distance between supports is more than 8 feet, rails shall be equivalent in strength to 2 x 4 inch lumber. Rails shall be firmly secured. Where exposed to hot work or chemicals, fiber rope rails shall not be used.

(3) Rails may be omitted where the structure of the vessel prevents their use. When rails are omitted employees working more than 5 feet above solid surfaces shall be protected by safety belts and life lines meeting the requirements of § 1501.84(b), and employees working over water shall be protected by buoyant work vests meeting the requirements of § 1501.84(a).

16. In § 1501.42 paragraphs (a) (4) and (6) are amended to read as follows:

§ 1501.42 Ladders.

(a) *General requirements.* * * *

(4) Portable metal ladders shall be of strength equivalent to that of wood ladders. Manufactured portable metal ladders provided by the employer shall be in accordance with the provisions of the United States of America Standard Safety Code for Portable Metal Ladders, A14.2.

(6) Manufactured portable wood ladders provided by the employer shall be in accordance with the provisions of the United States of America Standard Safety Code for Portable Wood Ladders, A14.1.

17. In § 1501.43 title to section is amended and paragraphs (c), (d), (e), and (f) are added to read as follows:

§ 1501.43 Guarding of deck openings and edges.

(c) When employees are exposed to unguarded edges of decks, platforms, flats, and similar flat surfaces, more than 5 feet above a solid surface, the edges shall be guarded by adequate guardrails meeting the requirements of § 1501.41(1) and (2), unless the nature of the work in progress or the physical conditions prohibit the use or installation of such guardrails.

(d) When employees are working near the unguarded edges of decks of vessels afloat, they shall be protected by buoyant work vests, meeting the requirements of § 1501.84(a).

(e) Sections of bilges from which floor plates or gratings have been removed shall be guarded by guardrails except where they would interfere with work in progress. If these open sections are in a

walkway at least two 10-inch planks placed side by side, or equivalent, shall be laid across the opening to provide a safe walking surface.

(f) Gratings, walkways, and catwalks, from which sections or ladders have been removed, shall be barricaded with adequate guardrails.

18. In § 1501.45 title to section is amended and paragraph (g) is added to read as follows:

§ 1501.45 Access to and guarding of dry-docks and marine railways.

(g) Catwalks on stiles of marine railways shall be no less than 20 inches wide and shall have on at least one side a guardrail and midrail meeting the requirements of § 1501.41(1) (1) and (2).

19. In § 1501.47 the paragraph designation (a) is assigned to the first paragraph and paragraphs (b), (c), and (d) are added to read as follows:

§ 1501.47 Working surfaces.

(a) When firebox floors present tripping hazards of exposed tubing or of missing or removed refractory, sufficient planking to afford safe footing shall be laid while work is being carried on within the boiler.

(b) When employees are working aloft, or elsewhere at elevations more than 5 feet above a solid surface, either scaffolds or a sloping ladder, meeting the requirements of this subpart, shall be used to afford safe footing, or the employees shall be protected by safety belts and lifelines meeting the requirements of § 1501.84(b). Employees visually restricted by blasting hoods, welding helmets, and burning goggles shall work from scaffolds, not from ladders, except for the initial and final welding or burning operation to start or complete a job, such as the erection and dismantling of hung scaffolding, or other similar, non-repetitive jobs of brief duration.

(c) For work performed in restricted quarters, such as behind boilers and in between congested machinery units and piping, work platforms at least 20 inches wide meeting the requirements of § 1501.41(h) (1) shall be used. Backrails may be omitted if bulkheading, boilers, machinery units, or piping afford proper protection against falling.

(d) When employees are boarding, leaving, or working from small boats or floats, they shall be protected by buoyant work vests meeting the requirements of § 1501.84(a).

Subpart F—General Working Conditions

20. In § 1501.51 paragraph (a) is amended to read as follows:

§ 1501.51 Housekeeping.

(a) Good housekeeping conditions shall be maintained at all times. Adequate aisles and passageways shall be maintained in all work areas. All staging platforms, ramps, stairways, walkways, aisles, and passageways on vessels or dry docks shall be kept clear of all tools, materials, and equipment

except that which is in use, and all debris such as welding rod tips, bolts, nuts, and similar material. Hose and electric conductors shall be elevated over or placed under the walkway or working surfaces or covered by adequate crossover planks.

21. In § 1501.52 paragraph (b) (2) is amended to read as follows:

§ 1501.52 Illumination.

(b) Temporary lights shall be equipped with heavy duty electric cords with connections and insulation maintained in safe condition. Temporary lights shall not be suspended by their electric cords unless cords and lights are designed for this means of suspension. Splices which have insulation equal to that of the cable are permitted.

22. In § 1501.53 paragraph (c) (1) is added to read as follows:

§ 1501.53 Utilities.

(c) *Infrared electrical heat lamps.* (1) All infrared electrical heat lamps shall be equipped with guards that surround the lamps with the exception of the face, to minimize accidental contact with the lamps.

23. In § 1501.57 paragraphs (a), (b), and (c) are changed to (e), (f), and (g), and new paragraphs (a), (b), (c), and (d) are added to read as follows:

§ 1501.57 Health and sanitation.

(a) No chemical product, such as a solvent or preservative; structural material, such as cadmium or zinc coated steel or plastic materials; or process material, such as welding filler metals, shall be used until the employer ascertains the potential fire and toxic hazards which may be encountered in the handling, application, or utilization of these materials.

(b) The employer shall instruct employees who will be exposed to the hazardous materials as to the nature of the hazards and the means of avoiding them.

(c) The employer shall provide all necessary controls, and the employees shall be protected against the hazards referred to in paragraph (a) of this section and those hazards for which specific precautions are required in Subparts B, C, and D of this part, by suitable personal protective equipment.

(d) Paragraphs (a), (b), and (c) of this section shall take effect 180 days after the effective date of this amendment.

(e) The employer shall provide adequate washing facilities for employees engaged in the application of paints or coatings or in other operations where contaminants can, by ingestion or absorption, be detrimental to the health of the employee. The employer shall encourage good personal hygiene practices by informing the employees of the need for removing surface contaminants by thorough washing of hands and face prior to eating or smoking.

(f) The employer shall not permit eating or smoking in areas undergoing surface preparation or preservation.

(g) The employer shall not permit employees to work in the immediate vicinity of uncovered garbage and shall ensure that employees working beneath or on the outboard side of a vessel are not subject to contamination by drainage or waste from overboard discharges.

24. In § 1501.58 paragraph (d) is amended to read as follows:

§ 1501.58 Firstaid.

(d) There shall be available for each vessel on which ten (10) or more employees are working one Stokes basket stretcher, or equivalent, permanently equipped with bridges for attaching to the hoisting gear, except that no more than two stretchers are required on each job location. A blanket or other liner suitable for transferring the patient to and from the stretcher shall be provided. Stretchers shall be kept close to the vessels. This paragraph does not apply where ambulance services which are available are known to carry such stretchers.

Subpart G—Gear and Equipment for Rigging and Materials Handling

25. In § 1501.64 paragraph (d) is added to read as follows:

§ 1501.64 Chain falls and pull-lifts.

(d) Scaffolding shall not be used as a point of attachment for lifting devices, such as tackles, chain falls, and pull-lifts unless the scaffolding is specifically designed for that purpose.

26. In § 1501.65 paragraphs (a) and (c) are changed to (b) and (e), paragraphs (b) (1) and (2) are changed to (c) (1) and (2), paragraph (b) (3) is amended and changed to paragraph (d), and new paragraph (a) is added to read as follows:

§ 1501.65 Hoisting and hauling equipment.

(a) *Derrick and crane certification:* (1) Derricks and cranes which are part of, or regularly placed aboard barges, other vessels, or on wingwalls of floating drydocks, and are used to transfer materials or equipment from or to a vessel or drydock, shall be tested and certificated in accordance with the standards provided in Part 1505 of this chapter by persons accredited for that purpose.

(2) Subparagraph (1) of this paragraph shall take effect 180 days after the effective date of this amendment.

(b) The moving parts of hoisting and hauling equipment shall be guarded.

(c) *Mobile crawler or truck cranes used on a vessel:* (1) The maximum manufacturer's rated safe working loads for the various working radii of the boom and the maximum and minimum radii at which the boom may be safely used with and without outriggers shall be conspicuously posted near the controls and

shall be visible to the operator. A radius indicator shall be provided.

(2) The posted safe working loads of mobile crawler or truck cranes under the conditions of use shall not be exceeded.

(d) Accessible areas within the swing radius of the outermost part of the body of a revolving derrick or crane either permanently or temporarily mounted, shall be guarded in such a manner as to prevent an employee from being in such a position as to be struck by the crane or caught between the crane and fixed parts of the vessel or of the crane itself.

(e) *Marine railways:* (1) The cradle or carriage on the marine railway shall be positively blocked or secured when in the hauled position to prevent it from being accidentally released.

27. In § 1501.66 paragraph (m) is amended, paragraphs (n) and (o) are changed to (o) and (p), and new paragraph (n) is added to read as follows:

§ 1501.66 Use of gear.

(m) A section of hatch through which materials or equipment are being raised, lowered, moved, or otherwise shifted manually or by a crane, winch, hoist, or derrick, shall be completely opened. The beam or pontoon left in place adjacent to an opening shall be sufficiently lashed, locked or otherwise secured to prevent it from being unshipped so that it cannot be displaced by accident.

(n) Hatches shall not be opened or closed while employees are in the square of the hatch below.

(o) Before loads or empty lifting gear are raised, lowered, or swung, clear and sufficient advance warning shall be given to employees in the vicinity of such operations.

(p) At no time shall an employee be permitted to place himself in a hazardous position between a swinging load and a fixed object.

28. In § 1501.68 title to section is added and Table G-6 is amended to read as follows:

§ 1501.68 Tables.

TABLE G-6—NUMBER AND SPACING OF U-BOLT WIRE ROPE CLIPS

Improved plow steel, rope diameter, inches	Number of clips		Minimum spacing, inches
	Drop forged	Other material	
1/2	3	4	3
3/4	3	4	3 1/2
1	4	5	4 1/2
1 1/4	4	5	5 1/4
1 1/2	5	6	6
1 3/4	5	6	6 3/4
2	6	7	7 1/2
2 1/4	6	7	8 1/4
2 1/2	6	8	9

*Three clips shall be used on wire size less than 1/2 inch diameter.

Subpart H—Tools and Related Equipment

29. In § 1501.71 paragraph (a) is amended and paragraphs (f), (g), and (h) are added to read as follows:

§ 1501.71 General precautions.

(a) Hand lines, slings, tackles of adequate strength, or carriers such as tool bags with shoulder straps shall be provided and used to handle tools, materials, and equipment so that employees will have their hands free when using ship's ladders and access ladders. The use of hose or electric cords for this purpose is prohibited.

(f) The moving parts of drive mechanisms, such as gearing and belting on large portable tools, shall be adequately guarded.

(g) Headers, manifolds, and widely spaced hose connections on compressed air lines shall bear the word "air" in letters at least 1 inch high, which shall be painted either on the manifold or separate hose connections, or on signs permanently attached to the manifolds or connections. Grouped air connections may be marked in one location.

(h) Before use, compressed air hose shall be examined. Visibly damaged and unsafe hose shall not be used.

30. In § 1501.72 paragraph (a) is amended to read as follows:

§ 1501.72 Portable electric tools.

(a) The frames of portable electric tools and appliances, except double insulated tools approved by Underwriters' Laboratories, shall be grounded either through a third wire in the cable containing the circuit conductors or through a separate wire which is grounded at the source of the current.

31. In § 1501.74 introduction to paragraph (c) is amended to read as follows:

§ 1501.74 Abrasive wheels.

(c) Cup type wheels use for external grinding shall be protected by either a revolving cup guard or a band type guard in accordance with the provisions of the United States of America Standard Safety Code for the Use, Care, and Protection of Abrasive Wheels, B7.1. All other portable abrasive wheels used for external grinding shall be provided with safety guards (protection hoods) meeting the requirements of paragraph (e) of this section, except as follows:

32. Section 1501.76 is added to read as follows:

§ 1501.76 Internal combustion engines, other than ship's equipment.

(a) When internal combustion engines, furnished by the employer are used in a fixed position below decks, for such purposes as driving pumps, generators, and blowers, the exhaust shall be led to the open air, clear of any ventilation intakes and openings through which it might enter the vessel.

(b) All exhaust line joints and connections shall be checked for tightness immediately upon starting the engine, and any leaks shall be corrected at once.

(c) When internal combustion engines on vehicles, such as forklifts and mobile cranes, or on portable equipment such

as fans, generators, and pumps exhaust into the atmosphere below decks, the competent person shall make tests of the carbon monoxide content of the atmosphere as frequently as conditions require to ensure that dangerous concentrations do not develop. Employees shall be removed from the compartment involved when the carbon monoxide concentration exceeds 50 parts per million (0.005%). The employer shall use blowers sufficient in size and number and so arranged as to maintain the concentration below this allowable limit before work is resumed.

Subpart I—Personal Protective Equipment

33. In § 1501.81 paragraph (c) (1) is amended to read as follows:

§ 1501.81 Eye protection.

(c) *Protection against radiant energy.*

(1) In any operation in which the eye hazard of injurious light rays or other radiant energy exists, depending upon the intensity of the radiation to which employees are exposed, they shall be protected by spectacles, cup goggles, helmets, hand shields, or face shields equipped with filter lenses meeting the requirements of paragraphs (a) and (c) (2) of this section.

34. In § 1501.83 paragraph (b) is amended to read as follows:

§ 1501.83 Head, foot, and body protection.

(b) Protective hats shall meet the specifications contained in the United States of America Standard Safety Code for Head, Eye, and Respiratory Protection, Z2.1. Hats without dielectric strength shall not be used where there is the possibility of contact with electric conductors.

35. In § 1501.84 sense of paragraph (a) (1) is transferred to §§ 1501.43(d) and 1501.47(d), and paragraph (b) (1) to § 1501.47(b); paragraphs (b) (2), (3), and (4) are amended as paragraphs (b) (2) and (3), and paragraphs (c) (4) is amended; and new paragraphs (a) (1) and (2), and (b) (1) are added to read as follows:

§ 1501.84 Lifesaving equipment.

(a) *Buoyant work vests.* (1) Buoyant work vests shall not meet the requirements of these regulations unless approved by the U.S. Coast Guard.

(2) Prior to each use, buoyant work vests shall be inspected for dry rot, chemical damage, or other defects which may affect their strength and buoyancy. Defective buoyant work vests shall not be used.

(b) *Safety belts and lifelines.* (1) Safety belts shall be equipped with lifelines which in use are secured with a minimum of slack to a fixed structure.

(2) Prior to each use, belts and lifelines shall be inspected for dry rot, chemical damage, or other defects which

may affect their strength. Defective belts and lifelines shall not be used.

(3) When employees are working in any location requiring a safety belt and a lifeline, care shall be exercised to ensure that the lifeline is not cut, pinched, or led over a sharp edge. In hot work operations or those involving the use of acids, solvents, or caustics, the line shall be kept clear to avoid its being burned or weakened. In order to keep the lifeline continuously attached with a minimum of slack to a fixed structure the attachment point of the lifeline shall be appropriately changed as the work progresses.

(c) Liferings and ladders.

(4) In the vicinity of each vessel afloat in which work is being performed there shall be at least one portable or permanent ladder of sufficient length to assist employees to reach safety in the event that they fall into the water.

Subpart J—Ship's Machinery and Piping Systems

36. In § 1501.91 paragraph (a) introductory text and subparagraphs (1) and (2) are amended to read as follows:

§ 1501.91 Ship's boilers.

(a) Before work is performed in the fire, steam, or water spaces of a boiler where employees may be subject to injury from the direct escape of a high temperature medium, such as steam, or water, oil, or other medium at a high temperature entering from an interconnecting system, the employer shall insure that the following steps are taken:

(1) The isolation and shutoff valves connecting the dead boiler with the live system or systems shall be secured, blanked, and tagged indicating that employees are working in the boiler. This tag shall not be removed nor the valves unblanked until it is determined that this may be done without creating a hazard to the employees working in the boiler, or until the work in the boiler is completed. Where valves are welded instead of bolted at least two isolation and shutoff valves connecting the dead boiler with the live system or systems shall be secured, locked, and tagged.

(2) Drain connections to atmosphere on all of the dead interconnecting systems shall be opened for visual observation of drainage.

37. In § 1501.92 paragraph (a) introductory text and subparagraphs (1) and (2) are amended to read as follows:

§ 1501.92 Ship's piping systems.

(a) Before work is performed on a valve, fitting, or section of piping in a piping system where employees may be subject to injury from the direct escape of steam, or water, oil, or other medium at a high temperature, the employer shall insure that the following steps are taken:

(1) The isolation and shutoff valves connecting the dead system with the live system or systems shall be secured, blanked, and tagged indicating that employees are working on the systems.

This tag shall not be removed nor the valves unblanked until it is determined that this may be done without creating a hazard to the employees working on the system, or until the work on the system is completed. Where valves are welded instead of bolted at least two isolation and shutoff valves connecting the dead system with the live system or systems shall be secured, locked, and tagged.

(2) Drain connections to atmosphere on all of the dead interconnecting systems shall be opened for visual observation of drainage.

Subpart I—Electrical Machinery

38. Section 1501.111 is amended to read as follows:

§ 1501.111 Electrical circuits and distribution boards.

(a) Before an employee is permitted to work on an electrical circuit, except when the circuit must remain energized for testing and adjusting, the circuit shall be deenergized and checked at the point at which the work is to be done to insure that it is actually deenergized. When testing or adjusting an energized circuit a rubber mat, duck board, or other suitable insulation shall be used underfoot where an insulated deck does not exist.

(b) Deenergizing the circuit shall be accomplished by opening the circuit breaker, opening the switch, or removing the fuse, whichever method is appropriate. The circuit breaker, switch, or fuse location shall be tagged to indicate that an employee is working on the circuit. Such tags shall not be removed nor the circuit energized until it is definitely determined that the work on the circuit has been completed.

(c) When work is performed immediately adjacent to an open-front energized board or in back of an energized board, the board shall be covered or some other equally safe means shall be used to prevent contact with any of the energized parts.

PART 1502—SAFETY AND HEALTH REGULATIONS FOR SHIPBUILDING

Subpart A—General Provisions

39. Section 1502.5 is amended to read as follows:

§ 1502.5 Reference specifications, standards, and codes.

Specifications, standards, and codes of agencies of the U.S. Government, to the extent specified in the text, form a part of the regulations of this part. In addition, under the authority vested in the Secretary under the Act, the specifications, standards, and codes of organizations which are not agencies of the U.S. Government, in effect on the date of the promulgation of the regulations of this part as listed below, to the extent specified in the text, form a part of the regulations of this part:

National Fire Protection Association, 60 Batterymarch Street, Boston, Mass. 02110, Subpart B, § 1502.10(a).

Underwriters' Laboratories, Inc., 207 East Ohio Street, Chicago, Ill. 60611, Subpart C §§ 1502.24(b) (7), 1502.25(a) (4); Subpart H, § 1502.72(a).

United States of America Standard Safety Code for Portable Wood Ladders, A14.1-1959, United States of America Standards Institute, Inc., 10 East 40th Street, New York, N.Y. 10016, Subpart E, § 1502.42(a) (6).

American Society of Mechanical Engineers, Boiler and Pressure Vessel Code, Section VIII, Rules for Construction of Unfired Pressure Vessels, American Society of Mechanical Engineers, 345 East 47th Street, New York, N.Y. 10017, Subpart K, § 1502.101(a).

Threshold Limit Values, American Conference of Governmental Industrial Hygienists, 1014 Broadway, Cincinnati, Ohio 45202, Subpart C § 1502.21(b).

United States of America Standard Safety Code for the Use, Care, and Protection of Abrasive Wheels, B7.1-1964, United States of America Standards Institute, Inc., 10 East 40th Street, New York, N.Y. 10016, Subpart H, § 1502.74(c).

40. The title to Subpart B is amended to read as follows:

Subpart B—Explosive and Other Dangerous Atmospheres

41. In § 1502.10 paragraphs (a) (1) and (2), (b) (1), (3), and (5), and (c) (1) are amended to read as follows:

§ 1502.10 Competent person.

(a) *Designation.* (1) For the purposes of Subparts C, D, and H of this part, except for §§ 1502.24(b) (8) and 1502.25(a) (5), one or more competent persons shall be designated by the employer in accordance with the applicable requirements of this section unless the requirements of Subparts C, D, and H of this part are always carried out by a National Fire Protection Association Certified Marine Chemist.

(2) The employer shall indicate on U.S. Department of Labor Form MAR-3, "Designation of Competent Person" either those employees designated as competent persons or that the prescribed functions of such persons are always carried out by a National Fire Protection Association Certified Marine Chemist in addition to his professional duties. When additions or changes are made in the personnel so designated, a new Form MAR-3 shall be executed. A copy of this executed form shall be forwarded to the nearest office of the Bureau of Labor Standards.

(b) *Criteria.* The following criteria shall guide the employer in designating employees as competent persons:

(1) Ability to understand the meaning of designations on certificates and of any qualifications relating thereto and to carry out any instructions, either written or oral, left by the National Fire Protection Association Certified Marine Chemist or issued by a consultant or chemist who may be used by the employer to make the tests and inspections required by Subparts C and D of this part.

(3) Familiarity with and understanding of Subparts C, D, and H of this part.

(5) Capability to perform the tests and inspections required by Subparts C, D, and H of this part and to write the required logs.

(c) Logging of inspections and tests.

(1) When tests and inspections required to be performed by a competent person by any provisions of Subparts C, D, and H of this part, except those referred to in § 1502.25 (b) (8) and (a) (5), are made, a record of the locations, operations performed and date, time, and results of the tests and any instructions resulting therefrom shall be recorded on U.S. Department of Labor Form MAR-9, "Log of Inspections and Tests by Competent Person." A separate form shall be used for each vessel on which tests and inspections are made.

Subpart C—Surface Preparation and Preservation

42. Section 1502.21 is amended to read as follows:

§ 1502.21 Toxic cleaning solvents.

(a) When toxic solvents are used, the employer shall employ one or more of the following measures to safeguard the health of employees exposed to these solvents.

(1) The cleaning operation shall be completely enclosed, to prevent the escape of vapor into the working space.

(2) Either natural ventilation or mechanical exhaust ventilation shall be used to remove the vapor at the source and to dilute the concentration of vapors in the working space to a concentration which is safe for the entire work period.

(3) Employees shall be protected against toxic vapors by suitable respiratory protective equipment in accordance with the requirements of § 1502.82 (a) and (c), and, where necessary, against exposure of skin and eyes to contact with toxic solvents and their vapors by suitable clothing and equipment.

(b) The principles in the threshold limit values to which attention is directed in § 1502.5 will be used by the Department of Labor in enforcement proceedings in defining a safe concentration of air contaminants.

(c) When flammable solvents are used, precautions shall be taken in accordance with the requirements of § 1502.25.

43. In § 1502.23 paragraph (c) (1) (iv) is added to read as follows:

§ 1502.23 Mechanical paint removers.

(c) Abrasive blasting—(1) Equipment.

(iv) *Dead man control.* A dead man control device shall be provided at the nozzle end of the blasting hose either to provide direct cut off or to signal the pot tender by means of a visual and audible signal to cutoff the flow, in the event the blaster loses control of the hose. The pot tender shall be available at all times to respond immediately to the signal.

44. In § 1502.24 paragraphs (a) (4), (b) (5), (13), and (14) are amended to read as follows:

§ 1502.24 Painting.

(a) *Paints mixed with toxic vehicles or solvents.* * * *

(4) The metallic parts of air moving devices, including fans, blowers, and jet-type air movers, and all duct work shall be electrically bonded to the vessel's structure.

(b) *Paints and tank coatings dissolved in highly volatile, toxic, and flammable solvents.* * * *

(5) All motors and control equipment shall be of the explosion-proof type. Fans shall have nonferrous blades. Portable air ducts shall also be of nonferrous materials. All motors and associated control equipment shall be properly maintained and grounded.

(13) All employees continuously in a compartment in which such painting is being performed, shall be protected by air line respirators in accordance with the requirements of § 1502.82(a) and by suitable protective clothing. Employees entering such compartments for a limited time shall be protected by filter cartridge type respirators in accordance with the requirements of § 1502.82 (a) and (e).

(14) All employees doing exterior paint spraying with such paints shall be protected by suitable filter cartridge type respirators in accordance with the requirements of § 1502.82 (a) and (e) and by suitable protective clothing.

Subpart D—Welding, Cutting, and Heating

45. In § 1502.31 paragraph (a) (1) (vi) is amended to read as follows:

§ 1502.31 Ventilation and protection in welding, cutting, and heating.

(a) *Mechanical ventilation; requirements.* (1) * * *

(vi) Oxygen shall not be used for ventilation purposes, comfort cooling, blowing dust or dirt from clothing, or for cleaning the work area.

46. In § 1502.32 paragraph (e) is amended and paragraphs (h) and (i) are added to read as follows:

§ 1502.32 Fire prevention.

(e) When the welding, cutting, or heating operation is such that normal fire prevention precautions are not sufficient, additional personnel shall be assigned to guard against fire while the actual welding, cutting, or heating operation is being performed and for a sufficient period of time after completion of the work to insure that no possibility of fire exists. Such personnel shall be instructed as to the specific anticipated fire hazards and how the fire fighting equipment provided is to be used.

(h) Vaporizing liquid extinguishers shall not be used in enclosed spaces.

(i) Except when the contents are being removed or transferred, drums,

pails, and other containers which contain or have contained flammable liquids shall be kept closed. Empty containers shall be removed to a safe area apart from hot work operations, or open flames.

47. In § 1502.35 paragraph (a) (9), titles to paragraphs (e) and (g), and paragraphs (e) (1), (2), and (3) are amended, and paragraphs (e) (4) and (5) and (g) (2) and (3) are added to read as follows:

§ 1502.35 Gas welding and cutting.

(a) *Transporting, moving, and storing compressed gas cylinders.* * * *

(9) Acetylene cylinders shall be secured in an upright position at all times except, if necessary, for short periods of time while cylinders are actually being hoisted or carried.

(e) *Fuel gas and oxygen manifolds.*

(1) Fuel gas and oxygen manifolds shall bear the name of the substance they contain in letters at least one (1) inch high which shall be either painted on the manifold or on a sign permanently attached to it.

(2) Fuel gas and oxygen manifolds shall be placed in safe and accessible locations in the open air. They shall not be located within enclosed spaces.

(3) Manifold hose connections, including both ends of the supply hose that lead to the manifold, shall be such that the hose cannot be interchanged between fuel gas and oxygen manifolds and supply header connections. Adapters shall not be used to permit the interchange of hose. Hose connections shall be kept free of grease and oil.

(4) When not in use, manifold and header hose connections shall be capped.

(5) Nothing shall be placed on top of a manifold, when in use, which will damage the manifold or interfere with the quick closing of the valves.

(g) *Torches.* * * *

(2) Torches shall be inspected at the beginning of each shift for leaking shut-off valves, hose couplings, and tip connections. Defective torches shall not be used.

(3) Torches shall be lighted by friction lighters or other approved devices, and not by matches or from hot work.

48. In § 1502.36 paragraph (a) (2) is amended to read as follows:

§ 1502.36 Arc welding and cutting.

(a) *Manual electrode holders.* * * *

(2) Any current carrying parts passing through the portion of the holder which the arc welder or cutter grips in his hand, and the outer surfaces of the jaws of the holder, shall be fully insulated against the maximum voltage encountered to ground.

Subpart E—Scaffolds, Ladders, and Other Working Surfaces

49. In § 1502.41 paragraphs (a) (6), (1) (2) and (3) are amended to read as follows:

§ 1502.41 Scaffolds or staging.

(a) *General requirements.* * * *

(6) Barrels, boxes, cans, loose bricks, or other unstable objects shall not be used as working platforms or for the support of planking intended as scaffolds or working platforms.

(1) *Backrails and toeboards.* * * *

(2) Rails shall be of 2 x 4 inch lumber, flat bar or pipe. When used with rigid supports, taut wire or fiber rope of adequate strength may be used. If the distance between supports is more than 8 feet, rails shall be equivalent in strength to 2 x 4 inch lumber. Rails shall be firmly secured. Where exposed to hot work or chemicals, fiber rope rails shall not be used.

(3) Rails may be omitted where the structure of the vessel prevents their use. When rails are omitted employees working more than 5 feet above solid surfaces shall be protected by safety belts and life lines meeting the requirements of § 1502.84(b), and employees working over water shall be protected by buoyant work vests meeting the requirements of § 1502.84(a).

50. In § 1502.42 paragraphs (a) (4) and (6) are amended to read as follows:

§ 1502.42 Ladders.

(a) *General requirements.* * * *

(4) Portable metal ladders shall be of strength equivalent to that of wood ladders. Manufactured portable metal ladders provided by the employer shall be in accordance with the provisions of the United States of America Standard Safety Code for Portable Metal Ladders, A14.2.

(6) Manufactured portable wood ladders provided by the employer shall be in accordance with the provisions of the United States of America Standard Safety Code for Portable Wood Ladders, A14.1.

51. In § 1502.43 title to section is amended and paragraphs (c), (d), (e), and (f) are added to read as follows:

§ 1502.43 Guarding of deck openings and edges.

(c) When employees are exposed to unguarded edges of decks, platforms, flats, and similar flat surfaces, more than 5 feet above a solid surface, the edges shall be guarded by adequate guardrails meeting the requirements of § 1502.41(1) (1) and (2), unless the nature of the work in progress or the physical conditions prohibit the use or installation of such guardrails.

(d) When employees are working near the unguarded edges of decks of vessels afloat, they shall be protected by buoyant work vests, meeting the requirements of § 1502.84(a).

(e) Section of bilges in which floor plates or gratings have not been installed shall be guarded by guardrails except where they would interfere with the work in progress. If these open sections are in

a walkway at least two 10-inch planks placed side by side, or equivalent, shall be laid across the opening to provide a safe walking surface.

(f) Gratings, walkways, and catwalks, in which sections of gratings and ladders have not been installed shall be barricaded with adequate guardrails.

52. In § 1502.45 title to section is amended and paragraph (g) is added to read as follows:

§ 1502.45 Access to and guarding of dry-docks and marine railways.

(g) Catwalks on stiles of marine railways shall be no less than 20 inches wide and shall have on at least one side a guardrail and midrail meeting the requirements of § 1502.41(i) (1) and (2).

53. In § 1502.47 the paragraph designation (a) is assigned to the first paragraph and paragraphs (b), (c), and (d) are added to read as follows:

§ 1502.47 Working surfaces.

(a) When firebox floors present tripping hazards of exposed tubing or of missing or removed refractory, sufficient planking to afford safe footing shall be laid while work is being carried on within the boiler.

(b) When employees are working aloft, or elsewhere at elevations more than 5 feet above a solid surface, either scaffolds or a sloping ladder, meeting the requirements of this subpart, shall be used to afford safe footing, or the employees shall be protected by safety belts and lifelines meeting the requirements of § 1502.84(b). Employees visually restricted by blasting hoods, welding helmets, and burning goggles shall work from scaffolds, not from ladders, except for the initial and final welding or burning operation to start or complete a job, such as the erection and dismantling of hung scaffolding, or other similar, nonrepetitive jobs of brief duration.

(c) For work performed in restricted quarters, such as behind boilers and in between congested machinery units and piping, work platforms at least 20 inches wide meeting the requirements of § 1502.41(h) (1) shall be used. Backrails may be omitted if bulkheading, boilers, machinery units, or piping afford proper protection against falling.

(d) When employees are boarding, leaving, or working from small boats or floats, they shall be protected by buoyant work vests meeting the requirements of § 1502.84(a).

Subpart F—General Working Conditions

54. In § 1502.51 paragraph (a) is amended to read as follows:

§ 1502.51 Housekeeping.

(a) Good housekeeping conditions shall be maintained at all times. Adequate aisles and passageways shall be maintained in all work areas. All staging platforms, ramps, stairways, walkways, aisles, and passageways on vessels or dry-docks shall be kept clear of all tools, materials, and equipment except that which

is in use, and all debris such as welding rod tips, bolts, nuts, and similar material. Hose and electric conductors shall be elevated over or placed under the walkway or working surfaces or covered by adequate crossover planks.

55. In § 1502.52 paragraph (b) (2) is amended to read as follows:

§ 1502.52 Illumination.

(b)

(2) Temporary lights shall be equipped with heavy duty electric cords with connections and insulation maintained in safe condition. Temporary lights shall not be suspended by their electric cords unless cords and lights are designed for this means of suspension. Splices which have insulation equal to that of the cable are permitted.

56. In § 1502.53 paragraph (c) (1) is added to read as follows:

§ 1502.53 Utilities.

(c) *Infrared electrical heat lamps.* (1) All infrared electrical heat lamps shall be equipped with guards that surround the lamps with the exception of the face, to minimize accidental contact with the lamps.

57. In § 1502.57 paragraphs (a) and (b) are changed to (e) and (f), and new paragraphs (a), (b), (c), and (d) are added to read as follows:

§ 1502.57 Health and sanitation.

(a) No chemical product, such as a solvent or preservative; structural material, such as cadmium or zinc coated steel or plastic materials; or process material, such as welding filler metals, shall be used until the employer ascertains the potential fire and toxic hazards which may be encountered in the handling, application, or utilization of these materials.

(b) The employer shall instruct employees who will be exposed to the hazardous materials as to the nature of the hazards and the means of avoiding them.

(c) The employer shall provide all necessary controls, and the employees shall be protected against the hazards referred to in paragraph (a) of this section and those hazards for which specific precautions are required in Subparts C and D of this part, by suitable personal protective equipment.

(d) Paragraphs (a), (b), and (c) of this section shall take effect 180 days after the effective date of this amendment.

(e) The employer shall provide adequate washing facilities for employees engaged in the application of paints or coatings or in other operations where contaminants can, by ingestion or absorption, be detrimental to the health of the employee. The employer shall encourage good personal hygiene practices by informing the employees of the need for removing surface contaminants by thorough washing of hands and face prior to eating or smoking.

(f) The employer shall not permit eating or smoking in areas undergoing surface preparation or preservation.

58. In § 1502.58 paragraph (d) is amended to read as follows:

§ 1502.58 First aid.

(d) There shall be available for each vessel on which ten (10) or more employees are working one Stokes basket stretcher, or equivalent, permanently equipped with bridle for attaching to the hoisting gear, except that no more than two stretchers are required on each job location. A blanket or other liner suitable for transferring the patient to and from the stretcher shall be provided. Stretchers shall be kept close to the vessels. This paragraph does not apply where ambulance services which are available are known to carry such stretchers.

Subpart G—Gear and Equipment for Rigging and Materials Handling

59. In § 1502.64 paragraph (d) is added to read as follows:

§ 1502.64 Chain falls and pull-lifts.

(d) Scaffolding shall not be used as a point of attachment for lifting devices, such as tackles, chain falls, and pull-lifts unless the scaffolding is specifically designed for that purpose.

60. In § 1502.65 paragraphs (a) and (c) are changed to (b) and (e), paragraphs (b) (1) and (2) are changed to (c) (1) and (2), paragraph (b) (3) is amended and changed to paragraph (d), and new paragraph (a) is added to read as follows:

§ 1502.65 Hoisting and hauling equipment.

(a) Derrick and crane certification: (1) Derricks and cranes which are part of, or regularly placed aboard, barges, other vessels, or on wingwalls of floating drydocks, and are used to transfer materials or equipment from or to a vessel or drydock, shall be tested and certificated in accordance with the standards provided in Part 1505 of this chapter by persons accredited for that purpose.

(2) Subparagraph (1) of this paragraph shall take effect 180 days after the effective date of this amendment.

(b) The moving parts of hoisting and hauling equipment shall be guarded.

(c) Mobile crawler or truck cranes used on a vessel: (1) The maximum manufacturer's rated safe workingloads for the various working radii of the boom and the maximum and minimum radii at which the boom may be safely used with and without outriggers shall be conspicuously posted near the controls and shall be visible to the operator. A radius indicator shall be provided.

(2) The posted safe working loads of mobile crawler or truck cranes under the conditions of use shall not be exceeded.

(d) Accessible areas within the swing radius of the outermost part of the body of a revolving derrick or crane either permanently or temporarily mounted,

shall be guarded in such a manner as to prevent an employee from being in such a position as to be struck by the crane or caught between the crane and fixed parts of the vessel or of the crane itself.

(e) Marine railways: (1) The cradle or carriage on the marine railway shall be positively blocked or secured when in the hauled position to prevent it from being accidentally released.

61. In § 1502.66 paragraph (m) is amended, paragraphs (n) and (o) are changed to (o) and (p), and new paragraph (n) is added to read as follows:

§ 1502.66 Use of gear.

(m) A section of hatch through which materials or equipment are being raised, lowered, moved, or otherwise shifted manually or by a crane, winch, hoist, or derrick, shall be completely opened. The beam or pontoon left in place adjacent to an opening shall be sufficiently lashed, locked or otherwise secured to prevent it from being unshipped.

(n) Hatches shall not be opened or closed while employees are in the square of the hatch below.

(o) Before loads or empty lifting gear are raised, lowered, or swung, clear and sufficient advance warning shall be given to employees in the vicinity of such operations.

(p) At no time shall an employee be permitted to place himself in a hazardous position between a swinging load and a fixed object.

62. In § 1502.68 Table G-6, is amended to read as follows:

§ 1502.68 Tables.

TABLE G-6—NUMBER AND SPACING OF U-BOLT WIRE ROPE CLIPS

Improved plow steel, rope diameter, inches	Number of clips		Minimum spacing, inches
	Drop forged	Other material	
1/4	3	4	3
3/8	3	4	3 3/4
1/2	4	5	4 1/2
5/8	4	5	5 1/4
3/4	4	6	6
7/8	5	6	6 3/4
1	5	7	7 1/2
1 1/8	6	7	8 1/4
1 1/4	6	8	9

*Three clips shall be used on wire size less than 1/4 inch diameter.

Subpart H—Tools and Related Equipment

63. In § 1502.71 paragraph (a) is amended and paragraphs (f), (g), and (h) are added to read as follows:

§ 1502.71 General precautions.

(a) Hand lines, slings, tackles of adequate strength, or carriers such as tool bags with shoulder straps, shall be provided and used to handle tools, materials, and equipment so that employees will have their hands free when using ship's ladders and access ladders. The use of

hose or electric cords for this purpose is prohibited.

(f) The moving parts of drive mechanisms, such as gearing and belting on large portable tools, shall be adequately guarded.

(g) Headers, manifolds, and widely spaced hose connections on compressed air lines shall bear the word "air" in letters at least 1 inch high, which shall be painted either on the manifold or separate hose connections, or on signs permanently attached to the manifolds or connections. Grouped air connections may be marked in one location.

(h) Before use, compressed air hose shall be examined. Visibly damaged and unsafe hose shall not be used.

64. In § 1502.72 paragraph (a) is amended to read as follows:

§ 1502.72 Portable electric tools.

(a) The frames of portable electric tools and appliances, except double insulated tools approved by Underwriters' Laboratories, shall be grounded either through a third wire in the cable containing the circuit conductors or through a separate wire which is grounded at the source of the current.

65. In § 1502.74 introduction to paragraph (c) is amended to read as follows:

§ 1502.74 Abrasive wheels.

(c) Cup type wheels used for external grinding shall be protected by either a revolving cup guard or a band type guard in accordance with the provisions of the United States of America Standard Safety Code for the Use, Care, and Protection of Abrasive Wheels, B7.1. All other portable abrasive wheels used for external grinding shall be provided with safety guards (protection hoods) meeting the requirements of paragraph (e) of this section, except as follows:

66. Section 1502.76 is added to read as follows:

§ 1502.76 Internal combustion engines, other than ship's equipment.

(a) When internal combustion engines, furnished by the employer are used in a fixed position below decks, for such purposes as driving pumps, generators, and blowers, the exhaust shall be led to the open air, clear of any ventilation intakes and openings through which it might enter the vessel.

(b) All exhaust line joints and connections shall be checked for tightness immediately upon starting the engine, and any leaks shall be corrected at once.

(c) When internal combustion engines on vehicles, such as forklifts and mobile cranes, or on portable equipment such as fans, generators, and pumps exhaust into the atmosphere below decks, the competent person shall make tests of the carbon monoxide content of the atmosphere as frequently as conditions require to insure that dangerous concentrations do not develop. Employees shall be re-

moved from the compartment involved when the carbon monoxide concentration exceeds 50 parts per million (0.005%). The employer shall use blowers sufficient in size and number and so arranged as to maintain the concentration below this allowable limit before work is resumed.

Subpart I—Personal Protective Equipment

67. In § 1502.81 paragraph (c) (1) is amended to read as follows:

§ 1502.81 Eye protection.

(c) Protection against radiant energy. (1) In any operation in which the eye hazard of injurious light rays or other radiant energy exists, depending upon the intensity of the radiation to which employees are exposed, they shall be protected by spectacles, cup goggles, helmets, hand shields, or face shields equipped with filter lenses meeting the requirements of paragraphs (a) and (c) (2) of this section.

68. In § 1502.83 paragraph (b) is amended to read as follows:

§ 1502.83 Head, foot, and body protection.

(b) Protective hats shall meet the specifications contained in the United States of America Standard Safety Code for Head, Eye, and Respiratory Protection, Z2.1. Hats without dielectric strength shall not be used where there is the possibility of contact with electric conductors.

69. In § 1502.84 sense of paragraph (a) (1) is transferred to §§ 1502.43(d) and 1502.47(d), and paragraph (b) (1) to § 1502.47(b); paragraphs (b) (2), (3), and (4) are amended as paragraphs (b) (2) and (3), and paragraph (c) (4) is amended; and new paragraphs (a) (1) and (2), and (b) (1) are added to read as follows:

§ 1502.84 Life saving equipment.

(a) Buoyant work vests. (1) Buoyant work vests shall not meet the requirements of these regulations unless approved by the U.S. Coast Guard.

(2) Prior to each use, buoyant work vests shall be inspected for dry rot, chemical damage, or other defects which may affect their strength and buoyancy. Defective buoyant work vests shall not be used.

(b) Safety belts and lifelines. (1) Safety belts shall be equipped with lifelines which in use are secured with a minimum of slack to a fixed structure.

(2) Prior to each use, belts and lifelines shall be inspected for dry rot, chemical damage, or other defects which may affect their strength. Defective belts and lifelines shall not be used.

(3) When employees are working in any location requiring a safety belt and a lifeline, care shall be exercised to insure that the lifeline is not cut, pinched, or led over a sharp edge. In hot work

operations or those involving the use of acids, solvents, or caustics, the line shall be kept clear to avoid its being burned or weakened. In order to keep the lifeline continuously attached with a minimum of slack to a fixed structure the attachment point of the lifeline shall be appropriately changed as the work progresses.

(c) *Liferings and ladders.* * * *

(4) In the vicinity of each vessel afloat on which work is being performed there shall be at least one portable or permanent ladder of sufficient length to assist employees to reach safety in the event that they fall into the water.

Subpart J—Ship's Machinery and Piping Systems

70. In § 1502.91 paragraph (a) introductory text and subparagraphs (1) and (2) are amended to read as follows:

§ 1502.91 Ship's boilers.

(a) Before work is performed in the fire, steam, or water spaces of a boiler where employees may be subject to injury from the direct escape of a high temperature medium, such as steam, or water, oil, or other medium at a high temperature entering from an interconnecting system, the employer shall insure that the following steps are taken:

(1) The isolation and shutoff valves connecting the dead boiler with the live system or systems shall be secured, blanked, and tagged indicating that employees are working in the boiler. This tag shall not be removed nor the valves unblanked until it is determined that this may be done without creating a hazard to the employees working in the boiler, or until the work in the boiler is completed. Where valves are welded instead of bolted at least two isolation and shutoff valves connecting the dead boiler with the live system or systems shall be secured, locked, and tagged.

(2) Drain connections to atmosphere on all of the dead interconnecting systems shall be opened for visual observation of drainage.

* * *

71. In § 1502.92 paragraph (a) introductory text and subparagraphs (1) and (2) are amended to read as follows:

§ 1502.92 Ship's piping systems.

(a) Before work is performed on a valve, fitting, or section of piping in a piping system where employees may be subject to injury from the direct escape of steam, or water, oil, or other medium at a high temperature, the employer shall insure that the following steps are taken:

(1) The isolation and shutoff valves connecting the dead system with the live system or systems shall be secured, blanked, and tagged indicating that employees are working on the system. This tag shall not be removed nor the valves unblanked until it is determined that this may be done without creating a hazard to the employees working on the system, or until the work on the system is completed. Where valves are welded

instead of bolted at least two isolation and shutoff valves connecting the dead system with the live system or systems shall be secured, locked, and tagged.

(2) Drain connections to atmosphere on all of the dead interconnecting systems shall be opened for visual observation of drainage.

Subpart L—Electrical Machinery

72. Section 1502.111 is amended to read as follows:

§ 1502.111 Electrical circuits and distribution boards.

(a) Before an employee is permitted to work on an electrical circuit, except when the circuit must remain energized for testing and adjusting, the circuit shall be deenergized and checked at the point at which the work is to be done to insure that it is actually deenergized. When testing or adjusting an energized circuit, a rubber mat, duck board, or other suitable insulation shall be used underfoot where an insulated deck does not exist.

(b) Deenergizing the circuit shall be accomplished by opening the circuit breaker, opening the switch, or removing the fuse, whichever method is appropriate. The circuit breaker, switch, or fuse location shall be tagged to indicate that an employee is working on the circuit. Such tags shall not be removed nor the circuit energized until it is definitely determined that the work on the circuit has been completed.

(c) When work is performed immediately adjacent to an open-front energized board or in back of an energized board, the board shall be covered or some other equally safe means shall be used to prevent contact with any of the energized parts.

PART 1503—SAFETY AND HEALTH REGULATIONS FOR SHIPBREAKING

Subpart A—General Provisions

73. Section 1503.5 is amended to read as follows:

§ 1503.5 Reference specifications, standards, and codes.

Specifications, standards, and codes of agencies of the U.S. Government, to the extent specified in the text, form a part of the regulations of this part. In addition, under the authority vested in the Secretary under the Act, the specifications, standards, and codes of organizations which are not agencies of the U.S. Government, in effect on the date of the promulgation of the regulations of this part as listed below, to the extent specified in the text, form a part of the regulations of this part:

National Fire Protection Association, 60 Batterymarch Street, Boston, Mass. 02110, Subpart B § 1503.13(b).

Underwriters' Laboratories, Inc., 207 East Ohio Street, Chicago, Ill. 60611, Subpart B, § 1503.12(b) and (f); Subpart H, § 1503.72(a).

United States of America Standard Safety Code for Portable Wood Ladders, A14.1-1959, United States of America Standards Institute, Inc., 10 East 40th Street, New York, N.Y. 10016, Subpart E, § 1503.42(a) (6).

United States of America Standard Safety Code for Portable Metal Ladders, A14.2-1959, United States of America Standards Institute, Inc., 10 East 40th Street, New York, N.Y. 10016, Subpart I, § 1503.42(a) (4).

United States of America Standard Safety Code for Head, Eye, and Respiratory Protection, Z2.1-1959, United States of America Standards Institute, Inc., 10 East 40th Street, New York, N.Y. 10016, Subpart I, §§ 1503.81(a) (1), 1503.83(b).

Threshold Limit Values, America Conference of Governmental Industrial Hygienists, 1014 Broadway, Cincinnati, Ohio 45202, Subpart B, § 1503.11 (a) (3) and (b) (3).

74. The title to Subpart B is amended to read as follows:

Subpart B—Explosive and Other Dangerous Atmospheres

75. In § 1503.10 paragraphs (a) (1) and (2), (b) (1), (3), and (5), and (c) (1) and (3) are amended to read as follows:

§ 1503.10 Competent person.

(a) *Designation.* (1) For the purposes of Subparts B, D, and H of this part one or more competent persons shall be designated by the employer in accordance with the applicable requirements of this section unless the requirements of Subparts B, D, and H of this part are always carried out by a National Fire Protection Association Certified Marine Chemist.

(2) The employer shall indicate on U.S. Department of Labor Form MAR-8, "Designation of Competent Person" either those employees designated as competent persons or that the prescribed functions of such persons are always carried out by a National Fire Protection Association Certified Marine Chemist in addition to his professional duties. When additions or changes are made in the personnel so designated, a new Form MAR-8 shall be executed. A copy of this executed form shall be forwarded to the nearest office of the Bureau of Labor Standards.

(b) *Criteria.* The following criteria shall guide the employer in designating employees as competent persons:

(1) Ability to understand the meaning of designations on certificates and of any qualifications relating thereto and to carry out any instructions, either written or oral, left by the National Fire Protection Association Certified Marine Chemist.

* * *

(3) Familiarity with and understanding of Subparts B, D, and H of this part.

* * *

(5) Capability to perform the tests and inspections required by Subparts B, D, and H of this part and to write the required logs.

(c) *Logging of inspections and tests.* (1) When tests and inspections required to be performed by a competent person by any provisions of Subparts B, D, and H of this part are made, a record of the locations, operations performed and date, time, and results of the tests and any instructions resulting therefrom shall be recorded on U.S. Department of Labor Form MAR-9, "Log of Inspections

and Tests by Competent Person." A separate form shall be used for each vessel on which tests and inspections are made.

(3) A copy of any certificate issued in accordance with § 1503.13 and of any instructions issued by the National Fire Protection Association Certified Marine Chemist shall be kept on file with the log for a period of at least 3 months from the date of the completion of the job.

76. Section 1503.11 is amended to read as follows:

§ 1503.11 Precautions before entering.

(a) *Flammable atmospheres and residues.* (1) Before employees are initially permitted to enter any of the ship's spaces designated in subdivisions (i) and (ii) of this subparagraph, the atmosphere within the space to be entered shall be tested by a competent person to determine the concentration of flammable vapors or gases within the space.

(i) Cargo spaces or other spaces containing or having last contained combustible or flammable liquids or gases in bulk.

(ii) Spaces immediately adjacent to those described in subdivision (i) of this subparagraph.

(2) If the tests indicate that the atmosphere in the space to be entered contains a concentration of flammable vapor or gas greater than 10 percent of the lower explosive limit, the space shall be ventilated to reduce the concentration below 10 percent of the lower explosive limit before men are permitted to enter.

(3) If the atmosphere in the space to be entered is found to contain a concentration of flammable vapor or gas below the level immediately dangerous to life as defined in § 1503.82(b)(1), but above the threshold limit value, employees shall be protected in accordance with the requirements of § 1503.82 (a), and (c), (d), or (e), whichever is applicable.

(b) *Toxic atmospheres and residues.* (1) Before employees are initially permitted to enter any of the ship's spaces designated in subdivisions (i) and (ii) of this subparagraph, the atmosphere in the space to be entered shall be tested for toxic atmospheric contaminants, and the space inspected for the presence of toxic or corrosive residues by a Marine Chemist, Industrial Hygienist or other person qualified to make these tests and inspections.

(i) Cargo spaces or other spaces containing or having last contained bulk liquids, gases, or solids of a toxic, corrosive or irritant nature.

(ii) Spaces immediately adjacent to those described in subdivision (i) of this subparagraph.

(2) If the tests indicate that the atmosphere in the space to be entered contains a concentration of toxic contaminants above the level which is immediately dangerous to life, the space shall be ventilated to reduce the concentration below the level immediately

dangerous to life as defined in § 1503.82 (b)(1).

(3) If the atmosphere in the space to be entered is found to contain a concentration of toxic contaminants below the level immediately dangerous to life as defined in § 1503.82(b)(1), but above the threshold limit value, employees shall be protected in accordance with the requirements of § 1503.82 (a), and (c), (d), or (e), whichever is applicable.

(4) The person qualified to make the tests and inspections referred to in subparagraph (1) of this paragraph shall make a record of the tests, inspections and instructions pertaining to subparagraph (3) of paragraph (a) of this section and subparagraphs (2) and (3) of this paragraph on U.S. Department of Labor Form MAR-9, which shall be available for inspection and kept on file in accordance with § 1503.10(c)(2).

(c) *Oxygen deficient atmospheres.* (1) Before employees are initially permitted to enter any of the ship's spaces designated in subdivisions (i) through (v) of this subparagraph, the atmosphere in the spaces to be entered shall be tested by a competent person with an oxygen indicator or other suitable device to ensure that it contains at least 16.5 percent oxygen.

(i) Spaces in which the tests required by paragraphs (a) and (b) of this section indicate that no flammable or toxic contaminants are present in the atmosphere.

(ii) Compartments which have been sealed.

(iii) Spaces which have been coated and closed up.

(iv) Nonventilated compartments which have been freshly painted.

(v) Cargo spaces containing cargoes or residues of cargoes which absorb oxygen, such as scrap iron, fresh fruit and molasses, and various vegetable drying oils in bulk.

(2) If the tests indicate that the atmosphere in the space to be entered contains less than 16.5 percent oxygen, the space shall be ventilated until tests indicate an oxygen content above this level.

(d) *Exceptions.* In emergencies and in cases of work of brief duration necessary to accomplish the ventilation required or to start operations, work may be performed in atmospheres containing concentrations of flammable contaminants above the upper explosive limit or otherwise immediately dangerous to life, provided employees are protected in accordance with the requirements of § 1503.82 (a) and (b).

77. In § 1503.12 introduction to paragraph (a) and paragraphs (b) and (d) are amended, and paragraphs (e), (f), and (g) are added to read as follows:

§ 1503.12 Cleaning and other cold work.

(a) Employees shall be permitted to remove residue materials or to perform other cold work in spaces described in § 1503.11 (a)(1) (i) and (ii), and (b)(1) (i) and (ii) only under the following conditions:

(b) Only approved explosion-proof, self-contained, battery-fed, portable lamps shall be used in spaces described in paragraph (b) of § 1503.13 before the spaces have been certified as "Safe for Men." Battery-fed, portable lamps bearing the approval of the Underwriters' Laboratories for use in Class I, Group D atmospheres, or approved as permissible by the U.S. Bureau of Mines, and such lamps listed by the U.S. Coast Guard as approved for such use are deemed to meet the requirements of this paragraph.

(d) The metallic parts of air moving devices, including fans, blowers, and jet-type air movers, and all duct work shall be electrically bonded to the vessel's structure.

(e) All motors and control equipment shall be of the explosion-proof type. Fans shall have nonferrous blades. Portable air ducts shall also be of nonferrous materials. All motors and associated control equipment shall be properly maintained and grounded.

(f) In spaces described in paragraph (b) of § 1503.13 which have been certified "Safe for Men," either battery lamps or explosion-proof lights, approved by the Underwriters' Laboratories for use in Class I, Group D atmospheres, or approved as permissible by the U.S. Bureau of Mines or the U.S. Coast Guard, shall be used, provided the lights are mounted to the space openings from the exterior, or suspended within the space with the cables so led as to protect them from injury.

(g) In spaces certified "Safe for Fire" nonexplosion proof lights may be used.

78. In § 1503.13 paragraphs (b) (3) and (4) are amended to read as follows:

§ 1503.13 Certification before hot work is begun.

(b) *Hot work below decks.* * * *

(3) In dry cargo holds for which a Marine Chemist's certificate is not required by paragraph (b)(2)(ii) of this section, hot work may be performed only after a competent person has carefully examined the hold and found it to be free of flammable liquids, gases, and vapors. If flammable liquids, gases, or vapors are found, hot work shall not be performed within the space until the flammable liquids, gases, or vapors have been removed and a test indicates that the space is safe for fire.

(4) Before hot work is performed in engine room and boiler room spaces of any vessel for which a Marine Chemist's certificate is not required by the provision of paragraph (b)(1) and (2) of this section or in fuel tank and engine compartments of boats, the bilges shall be inspected and tested by a competent person to ensure that they are free of flammable liquids, gases, and vapors. If flammable liquids, gases, or vapors are found, hot work shall not be performed within the space until the flammable liquids, gases, or vapors have been removed and a test indicates that the space is safe for fire.

79. In § 1503.14 paragraph (b) is amended to read as follows:

§ 1503.14 Maintaining gas free conditions.

(b) *Hot work below decks.* (1) When conditions in spaces below decks described in § 1503.13(b) (1) and (2) are such that there is a possibility of hazardous vapors being released from residues or other sources, after a Marine Chemist's certificate has been issued, a competent person shall make tests to ensure that the gas free condition is maintained irrespective of whether hot work is being performed in or on the aforementioned spaces. When the competent person finds that the atmospheric conditions have altered, work shall be stopped and a new Marine Chemist's certificate in accordance with § 1503.13(b) (1) and (2) shall be obtained, before work is resumed.

Subpart D—Welding, Cutting, and Heating

8. In § 1503.31 paragraph (a) (1) (vi) is amended to read as follows:

§ 1503.31 Ventilation and protection in welding, cutting, and heating.

(a) *Mechanical ventilation; requirements.* (1) * * *

(vi) Oxygen shall not be used for ventilation purposes, comfort cooling, blowing dust or dirt from clothing, or for cleaning the work area.

81. In § 1503.32 paragraph (b) is amended to read as follows:

§ 1503.32 Fire prevention.

(b) In all cases suitable fire extinguishing equipment shall be immediately available in the work area and shall be maintained in a state of readiness for instant use. Personnel assigned to contain fires within controllable limits shall be instructed as to the specific anticipated fire hazards and how the fire fighting equipment provided is to be used.

82. In § 1503.35 paragraph (a) (9), titles to paragraphs (e) and (g), and paragraphs (e) (1), (2), and (3) are amended, and paragraphs (e) (4) and (5) and (g) (2) and (3) are added to read as follows:

§ 1503.35 Gas welding and cutting.

(a) *Transporting, moving, and storing compressed gas cylinders.* * * *

(9) Acetylene cylinders shall be secured in an upright position at all times except, if necessary, for short periods of time while cylinders are actually being hoisted or carried.

(e) *Fuel gas and oxygen manifolds.* (1) Fuel gas and oxygen manifolds shall bear the name of the substance they contain in letters at least one (1) inch high which shall be either painted on the manifold or on a sign permanently attached to it.

(2) Fuel gas and oxygen manifolds shall be placed in safe and accessible

locations in the open air. They shall not be located within enclosed spaces.

(3) Manifold hose connections, including both ends of the supply hose that lead to the manifold, shall be such that the hose cannot be interchanged between fuel gas and oxygen manifolds and supply header connections. Adapters shall not be used to permit the interchange of hose. Hose connections shall be kept free of grease and oil.

(4) When not in use, manifold and header hose connections shall be capped.

(5) Nothing shall be placed on top of a manifold, when in use, which will damage the manifold or interfere with the quick closing of the valves.

(g) *Torches.* * * *

(2) Torches shall be inspected at the beginning of each shift for leaking shut-off valves, hose couplings, and tip connections. Defective torches shall not be used.

(3) Torches shall be lighted by friction lighters or other approved devices, and not by matches or from hot work.

83. In § 1503.36 paragraph (a) (2) is amended to read as follows:

§ 1503.36 Arc welding and cutting.

(a) *Manual electrode holders.* * * *

(2) Any current carrying parts passing through the portion of the holder which the arc welder or cutter grips in his hand, and the outer surfaces of the jaws of the holder, shall be fully insulated against the maximum voltage encountered to ground.

Subpart E—Scaffolds, Ladders, and Other Working Surfaces

84. In § 1503.41 paragraphs (a) (6), (e) (2) and (3) are amended to read as follows:

§ 1503.41 Scaffolds or staging.

(a) *General requirements.* * * *

(6) Barrels, boxes, cans, loose bricks, or other unstable objects shall not be used as working platforms or for the support of planking intended as scaffolds or working platforms.

(e) *Backrails and toeboards.* * * *

(2) Rails shall be of 2 x 4 inch lumber, flat bar or pipe. When used with rigid supports, taut wire or fiber rope of adequate strength may be used. If the distance between supports is more than 8 feet, rails shall be equivalent in strength to 2 x 4 inch lumber. Rails shall be firmly secured. Where exposed to hot work or chemicals, fiber rope rails shall not be used.

(3) Rails may be omitted where the structure of the vessel prevents their use. When rails are omitted employees working more than 5 feet above solid surfaces shall be protected by safety belts and lifelines meeting the requirements of § 1503.84(b), and employees working over water shall be protected by buoyant

work vests meeting the requirements of § 1503.84(a).

85. In § 1503.42 paragraphs (a) (4) and (6) are amended to read as follows:

§ 1503.42 Ladders.

(a) *General requirements.* * * *

(4) Portable metal ladders shall be of strength equivalent to that of wood ladders. Manufactured portable metal ladders provided by the employer shall be in accordance with the provisions of the United States of America Standard Safety Code for Portable Metal Ladders, A14.2.

(6) Manufactured portable wood ladders provided by the employer shall be in accordance with the provisions of the United States of America Standard Safety Code for Portable Wood Ladders, A14.1.

86. In § 1503.45 title to section is amended and paragraph (g) is added to read as follows:

§ 1503.45 Access to and guarding of drydocks and marine railways.

(g) Catwalks on stiles of marine railways shall be no less than 20 inches wide and shall have on at least one side a guardrail and midrail meeting the requirements of § 1503.41(e) (1) and (2).

87. Section 1503.47 is added to read as follows:

§ 1503.47 Working surfaces.

(a) When employees are boarding, leaving, or working from small boats or floats, they shall be protected by buoyant work vests meeting the requirements of § 1503.84(a).

Subpart F—General Working Conditions

88. In § 1503.52 paragraph (b) (2) is amended to read as follows:

§ 1503.52 Illumination.

(b) * * *

(2) Temporary lights shall be equipped with heavy duty electric cords with connections and insulation maintained in safe condition. Temporary lights shall not be suspended by their electric cords unless cords and lights are designed for this means of suspension. Splices which have insulation equal to that of the cables are permitted.

89. In § 1503.57 paragraphs (a), (b), and (c) are changed to (e), (f), and (g), and new paragraphs (a), (b), (c), and (d) are added to read as follows:

§ 1503.57 Health and sanitation.

(a) No chemical product, such as a solvent or preservative; structural material, such as cadmium or zinc coated steel or plastic materials; or process material, such as welding filler metals, shall be used until the employer ascertains the potential fire and toxic hazards

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which may be encountered in the handling, application, or utilization of these materials.

(b) The employer shall instruct employees who will be exposed to the hazardous materials as to the nature of the hazards and the means of avoiding them.

(c) The employer shall provide all necessary controls, and the employees shall be protected against the hazards referred to in paragraph (a) of this section and those hazards for which specific precautions are required in Subparts B and D of this part, by suitable personal protective equipment.

(d) Paragraphs (a), (b), and (c) of this section shall take effect 180 days after the effective date of this amendment.

(e) The employer shall provide adequate washing facilities for employees engaged in the various shipbreaking operations where contaminants can, by ingestion or absorption, be detrimental to the health of the employee. The employer shall encourage good personal hygiene practices by informing the employees of the need for removing surface contaminants by thorough washing of hands and face prior to eating or smoking.

(f) The employer shall not permit eating or smoking in the immediate areas where shipbreaking operations produce atmospheric contaminants.

(g) No minor under 18 years of age shall be employed in shipbreaking or related employments.

90. In § 1503.58 paragraph (d) is amended to read as follows:

§ 1503.58 First aid.

(d) There shall be available for each vessel one Stokes basket stretcher, or equivalent, permanently equipped with bridles for attaching to the hoisting gear, except that no more than two stretchers are required on each job location. A blanket or other liner suitable for transferring to patients to and from the stretcher shall be provided. Stretchers shall be kept close to the vessels. This paragraph does not apply where ambulance services which are available are known to carry such stretchers.

Subpart G—Gear and Equipment for Rigging and Materials Handling

91. In § 1503.64 paragraph (d) is added to read as follows:

§ 1503.64 Chain falls and pull-lifts.

(d) Scaffolding shall not be used as a point of attachment for lifting devices, such as tackles, chain falls, and pull-lifts unless the scaffolding is specifically designed for that purpose.

92. In § 1503.65 paragraphs (a) and (c) are changed to (b) and (e), paragraphs (b) (1) and (2) are changed to (c) (1) and (2), paragraph (b) (3) is amended

and changed to paragraph (d), and new paragraph (a) is added to read as follows:

§ 1503.65 Hoisting and hauling equipment.

(a) 'Derrick and crane certification: (1) Derricks and cranes which are part of, or regularly placed aboard, barges, other vessels, or on wingwalls of floating drydocks, and are used to transfer materials or equipment from or to a vessel or drydock, shall be tested and certified in accordance with the standards provided in Part 1505 of this chapter by persons accredited for that purpose.

(2) Subparagraph (1) of this paragraph shall take effect 180 days after the effective date of this amendment.

(b) The moving parts of hoisting and hauling equipment shall be guarded.

(c) Mobile crawler or truck cranes used on a vessel: (1) The maximum manufacturer's rated safe working loads for the various working radii of the boom and the maximum and minimum radii at which the boom may be safely used with and without outriggers shall be conspicuously posted near the controls and shall be visible to the operator. A radius indicator shall be provided.

(2) The posted safe working loads of mobile crawler or truck cranes under the conditions of use shall not be exceeded.

(d) Accessible areas within the swing radius of the outermost part of the body of a revolving derrick or crane either permanently or temporarily mounted, shall be guarded in such a manner as to prevent an employee from being in such a position as to be struck by the crane or caught between the crane and fixed parts of the vessel or of the crane itself.

(e) Marine railways:

(1) The cradle or carriage on the marine railway shall be positively blocked or secured when in the hauled position to prevent it from being accidentally released.

93. In § 1503.66 paragraph (m) is amended, and paragraph (n) is added to read as follows:

§ 1503.66 Use of gear.

(m) A section of hatch through which materials or equipment are being raised, lowered, moved, or otherwise shifted manually or by a crane, winch, hoist, or derrick, shall be completely opened. The beam or pontoon left in place adjacent to an opening shall be sufficiently lashed, locked or otherwise secured to prevent it from being unshipped.

(n) Hatches shall not be opened or closed while employees are in the square of the hatch below.

94. In § 1503.68 Table G-6 is amended to read as follows:

§ 1503.68 Tables.

TABLE G-6—NUMBER AND SPACING OF U-BOLT WIRE ROPE CLIPS

Improved plow steel, rope diameter, inches	Number of clips		Minimum spacing, inches
	Drop forged	Other material	
1/2	3	4	3
3/4	3	4	3 1/2
1	4	5	4 1/2
1 1/4	4	5	5 1/4
1 1/2	4	6	6
1 3/4	5	6	6 3/4
2	5	7	7 1/2
2 1/4	6	7	8 1/4
2 1/2	6	8	9

*Three clips shall be used on wire size less than 1/2 inch diameter.

Subpart H—Tools and Related Equipment

95. In § 1503.71 paragraph (a) is amended and paragraphs (f), (g), and (h) are added to read as follows:

§ 1503.71 General precautions.

(a) Hand lines, slings, tackles of adequate strength, or carriers such as tool bags with shoulder straps shall be provided and used to handle tools, materials, and equipment so that employees will have their hands free when using ship's ladders and access ladders. The use of hose or electric cords for this purpose is prohibited.

(f) The moving parts of drive mechanisms, such as gearing and belting on large portable tools, shall be adequately guarded.

(g) Headers, manifolds, and widely spaced hose connections on compressed air lines shall bear the word "air" in letters at least 1 inch high, which shall be painted either on the manifold or separate hose connections, or on signs permanently attached to the manifolds or connections. Grouped air connections may be marked in one location.

(h) Before use, compressed air hose shall be examined. Visibly damaged and unsafe hose shall not be used.

96. In § 1503.72 paragraph (a) is amended to read as follows:

§ 1503.72 Portable electric tools.

(a) The frames of portable electric tools and appliances, except double insulated tools approved by Underwriters' Laboratories, shall be grounded either through a third wire in the cable containing the circuit conductors or through a separate wire which is grounded at the source of the current.

97. In § 1503.74 introduction to paragraph (c) is amended to read as follows:

§ 1503.74 Abrasive wheels.

(c) Cup type wheels used for external grinding shall be protected by either a revolving cup guard or a band type guard

in accordance with the provisions of the United States of America Standard Safety Code for the Use, Care, and Protection of Abrasive Wheels, B7.1. All other portable abrasive wheels used for external grinding shall be provided with safety guards (protection hoods) meeting the requirements of paragraph (e) of this section, except as follows:

98. Section 1503.76 is added to read as follows:

§ 1503.76 Internal combustion engines, other than ship's equipment.

(a) When internal combustion engines, furnished by the employer are used in a fixed position below decks, for such purposes as driving pumps, generators, and blowers, the exhaust shall be led to the open air, clear of any ventilation intakes and openings through which it might enter the vessel.

(b) All exhaust line joints and connections shall be checked for tightness immediately upon starting the engine, and any leaks shall be corrected at once.

(c) When internal combustion engines on vehicles, such as forklifts and mobile cranes, or on portable equipment such as fans, generators, and pumps exhaust into the atmosphere below decks, the competent person shall make tests of the carbon monoxide content of the atmosphere as frequently as conditions require to ensure that dangerous concentrations do not develop. Employees shall be removed from the compartment involved when the carbon monoxide concentration exceeds 50 parts per million (0.005%). The employer shall use blowers sufficient in size and number and so arranged as to maintain the concentration below this allowable limit before work is resumed.

Subpart I—Personal Protective Equipment

99. In § 1503.81 paragraph (c) (1) is amended to read as follows:

§ 1503.81 Eye protection.

(c) *Protection against radiant energy.* (1) In any operation in which the eye hazard of injurious light rays or other radiant energy exists, depending upon the intensity of the radiation to which employees are exposed, they shall be protected by spectacles, cup goggles, helmets, hand shields, or face shields equipped with filter lenses meeting the requirements of paragraphs (a) and (c) (2) of this section.

100. In § 1503.83 paragraph (b) is amended to read as follows:

§ 1503.83 Head, foot, and body protection.

(b) Protective hats shall meet the specifications contained in the United States of America Standard Safety Code for Head, Eye, and Respiratory Protection, Z2.1. Hats without dielectric strength shall not be used where there

is the possibility of contact with electric conductors.

101. In § 1503.84 sense of paragraph (a) (1) is transferred to § 1503.47(a); paragraphs (b) (1), (2), (3), and (4) are amended as paragraphs (b) (1), (2), and (3), and paragraph (c) (4) is amended; and new paragraphs (a) (1) and (2) are added to read as follows:

§ 1503.84 Life saving equipment.

(a) *Buoyant work vests.* (1) Buoyant work vests shall not meet the requirements of these regulations unless approved by the U.S. Coast Guard.

(2) Prior to each use, buoyant work vests shall be inspected for dry rot, chemical damage, or other defects which may affect their strength and buoyancy. Defective buoyant work vests shall not be used.

(b) *Safety belts and lifelines.* (1) Safety belts shall be equipped with lifelines which in use are secured with a minimum of slack to a fixed structure.

(2) Prior to each use, belts and lifelines shall be inspected for dry rot, chemical damage, or other defects which may affect their strength. Defective belts and lifelines shall not be used.

(3) When employees are working in any location requiring a safety belt and a lifeline, care shall be exercised to insure that the lifeline is not cut, pinched, or led over a sharp edge. In hot work operations or those involving the use of acids, solvents, or caustics, the line shall be kept clear to avoid its being burned or weakened. In order to keep the lifeline continuously attached with a minimum of slack to a fixed structure the attachment point of the lifeline shall be appropriately changed as the work progresses.

(c) *Life rings and ladders.* . . .

(4) In the vicinity of each vessel afloat in which work is being performed there shall be at least one portable or permanent ladder of sufficient length to assist employees to reach safety in the event that they fall into the water.

(Sec. 41, 44 Stat. 1444; Sec. 1, 73 Stat. 825; 33 U.S.C. 941, Secretary's Order 12-68 (31 F.R. 12620))

[F.R. Doc. 67-11884; Filed, Oct. 9, 1967; 8:45 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Chapter I—Monetary Offices, Department of the Treasury

PART 128—TRANSACTIONS IN FOREIGN EXCHANGE, TRANSFERS OF CREDIT, AND EXPORT OF COIN AND CURRENCY

Subpart B—Description of Forms Prescribed Under This Part

ALTERNATIVE METHODS OF REPORTING

Subpart B of Part 128, Chapter I of Title 31 is amended by adding § 128.23, as follows:

§ 128.23 Alternative methods of reporting.

In lieu of reports on the forms described in this subpart, the required data may be reported on punch cards, magnetic tape, or other media that can be processed by data processing equipment, accompanied by a printed copy of the data reported which must be signed by a responsible officer of the reporting institution. The proposed method and format of reporting must be acceptable to the Federal Reserve Bank of the district in which the report is filed, and must be approved in writing by that Bank.

[SEAL] WINTHROP KNOWLTON,
Assistant Secretary.

[F.R. Doc. 67-11883; Filed, Oct. 9, 1967; 8:45 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 9—Atomic Energy Commission

PART 9-1—GENERAL

Subpart 9-1.53—Novation Agreements and Change of Name Agreements

New Subpart 9-1.53 is added, reading as follows:

Subpart 9-1.53—Novation Agreements and Change of Name Agreements

Sec.

9-1.5300 Scope of subpart.

9-1.5301 Agreement to recognize a successor in interest.

9-1.5302 Agreement to recognize change of name of contractor.

9-1.5303 Procedures.

AUTHORITY: The provisions of this Subpart 9-1.53 issued under sec. 161, Atomic Energy Act of 1954, as amended, 63 Stat. 949, 42 U.S.C. 2201; sec. 205, Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 330, 40 U.S.C. 436.

§ 9-1.5300 Scope of subpart.

This subpart prescribes the policy and procedures for (a) recognition of a successor in interest to contracts when such interests are required incidental to transfer of all the assets of a contractor or such part of his assets as is involved in the performance of the contract, and (b) a change of name of a contractor.

§ 9-1.5301 Agreement to recognize a successor in interest.

(a) The transfer of a Government contract by a contractor is prohibited by law (41 U.S.C. 15). However, the Government may recognize a third party as the successor in interest to a Government contract where the third party's interest is incidental to the transfer of all the assets of the contractor, or all that part of the contractor's assets involved in the performance of the contract. Examples include, but are not limited to:

RULES AND REGULATIONS

- (1) Sale of such assets;
- (2) Transfer of such assets pursuant to merger or consolidation of corporation; and
- (3) Incorporation of a proprietorship or partnership.

(b) A contractor who requests that a successor in interest be recognized shall be required to furnish the AEC office concerned (see AECPR 9-1.5303(a)) one copy of each of the following documents as appropriate:

(1) A properly authenticated copy of the instrument by which the transfer of assets is to be effected, as, for example, a bill of sale, certificate of merger, indenture of transfer, or decree of court;

(2) A list of all contracts and purchase orders which have not been finally settled between the Atomic Energy Commission and the transferor, showing the contract number, the name and address of the purchasing office involved, the total dollar value of each contract as amended, the type of contract involved, and the balance remaining unpaid;

(3) A certified copy of the resolutions of the Board of Directors of the corporate parties authorizing the transfer of assets;

(4) A certified copy of the minutes of any stockholders' meetings of the corporate parties necessary to approve the transfer of assets;

(5) A properly authenticated copy of the certificate and articles of incorporation of the transferee if such corporation was formed for the purpose of receiving the assets involved in the performance of the Government contracts;

(6) Opinion of counsel for the transferor and transferee that the transfer is in accordance with applicable law and the effective date of transfer;

(7) Evidence of the capability of the transferee to perform the contracts;

(8) Balance sheets of the transferor and the transferee as of dates immediately prior to and after the transfer of assets;

(9) Evidence of security clearance requirements; and

(10) Consent of sureties on all contracts listed under subparagraph (2) of this paragraph where bonds are required.

(c) If it is consistent with the Government's interest to recognize a successor in interest to a contract, an agreement will be executed with the transferor and the transferee, which shall ordinarily provide in part that:

(1) The transferee assumes all the transferor's obligations and liabilities under the contract;

(2) The transferor waives all rights under the contract as against the Government;

(3) The transferor guarantees performance of the contract by the transferee (a satisfactory performance bond may be accepted in lieu of such guarantee); and

(4) Nothing in the agreement shall relieve the transferor or the transferee from compliance with any Federal, State, or local law. All agreements, prior to execution, shall be reviewed by the Office of the General Counsel or the Office of the Chief Counsel, as the case may be, for legal sufficiency. A sample form for

such an agreement for use when the transferor and transferee are corporations, and all the assets of the transferor are transferred, is set forth herein. This sample form may be adapted to fit specific cases and may be used as a guide in preparing similar agreements for use in other situations.

AGREEMENT

This Agreement, entered into as of (date upon which the transfer of assets became effective pursuant to applicable State law) 19____, by and between ABC Corp., a corporation duly organized and existing under the laws of the State of _____ with its principal office in the city of _____ (hereinafter referred to as the "Transferor"); the XYZ Corp., a corporation duly organized and existing under the laws of the State of _____ with its principal office in the city of _____ (hereinafter referred to as the "Transferee"); and the United States of America (hereinafter referred to as the "Government"), represented by the U.S. Atomic Energy Commission (hereinafter referred to as the "Commission").

WITNESSETH

1. Whereas, the AEC has entered into the following contracts and purchase orders with the Transferor: _____

2. Whereas, as of _____, 19____, the Transferor assigned, conveyed, and transferred to the Transferee all the assets of the Transferor by virtue of a (term descriptive of the legal transaction involved) between the Transferor and the Transferee;

3. Whereas, the Transferee, by virtue of said assignment, conveyance and transfer, has acquired all the assets of the Transferor;

4. Whereas, by virtue of said assignment, conveyance and transfer, the Transferee has assumed all the duties, obligations and liabilities of the Transferor under the contracts;

5. Whereas, the Transferee is in a position fully to perform the contracts, and such duties and obligations as may exist under the contracts;

6. Whereas, it is consistent with the Government's interest to recognize the Transferee as the successor party to the contracts;

7. Whereas, there has been filed with the Commission evidence of said assignment, conveyance or transfer, as required by AECPR 9-1.5301(b);

(Where a change of name is also involved, such as prior or concurrent change of name of the transferee, an appropriate recital shall be used; for example:)

8. Whereas, there has been filed with the Commission a certificate dated _____, 19____, signed by the Secretary of State of the State of _____, to the effect that the corporate name of LMN Corp. was changed to XYZ Corp. on _____, 19____;

Now, therefore, in consideration of the premises, the parties hereto agree as follows:

9. The Transferor hereby confirms said assignment, conveyance and transfer to the Transferee, and does hereby release and discharge the Government from, and does hereby waive, any and all claims, demands, and rights against the Government which it now has or may hereafter have in connection with the contracts.

10. The Transferee hereby assumes, agrees to be bound by, and undertakes to perform each and every one of the terms, covenants, and conditions contained in the contracts. The Transferee further assumes all obligations and liabilities of, and all claims and demands against, the Transferor under the contracts, in all respects as if the Transferee were the original party to the contracts.

11. The Transferee hereby ratifies and confirms all actions heretofore taken by the Transferor with respect to the contracts with

the same force and effect as if the action had been taken by the Transferee.

12. The Commission hereby recognizes the Transferee as the Transferor's successor in interest in and to the contracts. The Transferee hereby becomes entitled to all right, title, and interest of the Transferor in and to the contracts in all respects as if the Transferee were the original party to the contracts. The term "Contractor" as used in the contracts shall be deemed to refer to the Transferee rather than to the Transferor.

13. Except as expressly provided herein, nothing in this Agreement shall be construed as a waiver of any rights of the Government against the Transferor.

14. Notwithstanding the foregoing provisions, all payments and reimbursements heretofore made by the Commission to the Transferor and all other action heretofore taken by the Commission, pursuant to its obligations under any of the contracts, shall be deemed to have discharged pro tanto the Government's obligations under the contracts. All payments and reimbursements made by the Commission after the date of this Agreement in the name of or to the Transferor shall have the same force and effect as if made to said Transferee and shall constitute a complete discharge of the Government's obligations under the contracts, to the extent of the amounts so paid or reimbursed.

15. The Transferor and the Transferee hereby agree that the Government shall not be obligated to pay or reimburse either of them for, or otherwise give effect to, any costs, taxes, or other expenses, or any increases therein, directly or indirectly arising out of or resulting from (i) said assignment, conveyance and transfer, or (ii) this Agreement, other than those which the Government, in the absence of said assignment, conveyance and transfer, or this Agreement, would have been obligated to pay or reimburse under the terms of the contracts.

16. The Transferor hereby guarantees payment of all liabilities and the performance of all obligations which the Transferee (i) assumes under this Agreement, or (ii) may hereafter undertake under the contracts as they may hereafter be amended or modified in accordance with the terms and conditions thereof; and the Transferor hereby waives notice of and consents to any such amendment or modification.

17. Except as herein modified, the contracts shall remain in full force and effect.

18. The term "the contracts" as used in this agreement means the contracts and purchase orders listed above (or in an attached exhibit); and all other contracts and purchase orders, including modifications thereto, heretofore made between the AEC and the Transferor (whether or not performance and payment have been completed and releases executed, if the Government or the Transferor has any remaining rights, duties, or obligations thereunder), and modifications to such contracts and purchase orders hereafter made in accordance with their terms and conditions.

In witness whereof, each of the parties hereto has executed this Agreement as of the day and year first above written.

		UNITED STATES OF AMERICA
By	_____	(Title)
[CORPORATE SEAL]	By	ABC CORPORATION
	_____	(Title)
[CORPORATE SEAL]	By	XYZ CORPORATION
	_____	(Title)

CERTIFICATE

I, _____, certify that I am the Secretary of ABC Corp., named above; that _____, who signed this Agreement on behalf of said corporation, was then _____ of said corporation; and that this agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Witness my hand and seal of said corporation this _____ day of _____, 19____

[CORPORATE SEAL] By _____

CERTIFICATE

I, _____, certify that I am the Secretary of XYZ Corp., named above; that _____, who signed this Agreement on behalf of said corporation, was then _____ of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and within the scope of its corporate powers.

Witness my hand and the seal of said corporation this _____ day of _____, 19____

[CORPORATE SEAL] By _____

§ 9-1.5302 Agreement to recognize change of name of contractor.

(a) A contractor who requests only that a change of name be recognized and states that the rights and obligations of the parties remain unaffected shall be required to furnish the AEC office (see § 9-1.5303(a)) concerned one copy of each of the following:

(1) A copy of the instrument by which the change of name was effected, authenticated by a proper official of the State having jurisdiction;

(2) Opinion of counsel for the contractor as to the effective date of the change of name and that it was properly effected in accordance with applicable law; and

(3) A list of all contracts and purchase orders which have not been finally settled between the Atomic Energy Commission and the transferor, showing the contract number, the name and address of the procuring activity involved, the total dollar value of each contract as amended, and the balance remaining unpaid.

(b) A format for such an agreement which shall be adapted for specific cases is set forth below.

AGREEMENT

This Agreement, entered into as of _____, 19____, by and between the ABC Corp. (formerly the XYZ Corp., and hereinafter sometimes referred to as the "contractor"), a corporation duly organized and existing under the laws of the State of _____, and the United States of America (hereinafter referred to as the "Government"), represented by the Atomic Energy Commission (hereinafter referred to as the "Commission").

WITNESSETH:

1. Whereas, the Commission has entered into the following contracts and purchase orders with the XYZ Corp.: _____;

2. Whereas, the XYZ Corp., by an amendment to its certificate of incorporation, dated _____, has changed its corporate name to ABC Corp.;

3. Whereas, a change of corporate name only is accomplished by said amendment, so that rights and obligations of the Govern-

ment and of the contractor under the contracts are unaffected by said change; and

4. Whereas, there has been filed with the Commission documentary evidence of said change in corporate name;

Now, therefore, in consideration of the foregoing, the parties hereto agree, that the contracts covered by this agreement are hereby amended by deleting therefrom the name "XYZ Corporation" wherever it appears in the contracts and substituting therefor the name "ABC Corporation."

The term "the contracts" as used in this agreement means the contracts and purchase orders listed in clause 1 above, and all other contracts and purchase orders, including modification thereto, entered into between the AEC and the contractor (whether or not performance and payment have been completed and releases executed, if the Government or the contractor has any remaining rights, duties, or obligations thereunder).

In witness whereof, each of the parties hereto has executed this Agreement as of the day and year first above written.

UNITED STATES OF AMERICA

By _____

(Title)

ABC CORPORATION

By _____

(Title)

CERTIFICATE

I, _____, certify that I am the Secretary of ABC Corp., named above; that _____, who signed this Agreement on behalf of said corporation, was then _____ of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Witness my hand and seal of said corporation this _____ day of _____, 19____

[CORPORATE SEAL]

By _____

§ 9-1.5303 Procedures.

(a) A contractor who wishes recognition of a successor in interest or of a change in name shall notify the AEC office with which it has the largest dollar amount of unliquidated obligations, and shall furnish that office with the pertinent documentation enumerated in §§ 9-1.5301 and 9-1.5302, as required.

(b) The AEC office (see paragraph (a) of this section) will take all necessary and appropriate action with respect to either recognizing or not recognizing a successor in interest or recognizing a change of name, including without limitation the following:

(1) Obtaining from the contractor a list of the affected contracts, the names and addresses of the procuring activities responsible for those contracts, and the required documentary evidence;

(2) Contacting other AEC offices concerned to determine whether there is any objection to recognizing a successor in interest;

(3) Drafting and executing a supplemental agreement to one of that office's contracts affected but covering all applicable outstanding and incomplete contracts affected by the transfer of assets or change of name; and

(4) Instituting and monitoring procedures for security clearance.

The supplemental agreement will contain a list of the contracts affected and, for distribution purposes, the names and addresses of the procuring activities having contracts subject to the supplemental agreement.

(c) The agreement and supporting documents will be reviewed for legal sufficiency by the Office of the General Counsel or the Office of the Chief Counsel, as the case may be.

(d) After execution of the supplemental agreement, the AEC office shall:

(1) Forward an authenticated copy of the supplemental agreement to the Director, Division of Contracts; and

(2) The Director, Division of Contracts will advise each of the AEC offices of the consummation of the supplemental agreement and request a letter referring to such supplemental agreement to be included in each affected contract.

(e) The contracting officer for each such affected contract shall prepare a letter which references the supplemental agreement (and cite the number of the contract with which the original relevant documents and supplemental agreement are filed) and acknowledges the change in name or successor in interest. Such letter will be given the same distribution as the affected contract.

Effective date. These regulations are effective upon publication in the FEDERAL REGISTER.

Dated at Germantown, Md., this 3d day of October 1967.

For the U.S. Atomic Energy Commission.

JOSEPH L. SMITH,
Director,
Division of Contracts.

[F.R. Doc. 67-11878; Filed, Oct. 9, 1967; 8:45 a.m.]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

PART 71—FOREIGN QUARANTINE

Importation of Psittacine Birds

On pages 8679-8681 of the FEDERAL REGISTER of June 16, 1967, there was published a notice of proposed rule making to revise the quarantine procedures with respect to entry of psittacine birds into the United States. Interested persons were given 30 days in which to submit written data, views, or arguments in regard to the proposed regulations.

After consideration of all such relevant matter as was presented by interested persons, the proposed regulations are hereby adopted without change and are set forth below.

Effective date. These regulations shall be effective as of the date of publication in the FEDERAL REGISTER.

Dated: September 19, 1967.

[SEAL] WILLIAM H. STEWART,
Surgeon General.

Approved: October 3, 1967.

WILBUR J. COHEN,
Acting Secretary.

Subpart J—Importation of Certain Things

§§ 71.152, 71.153 [Deleted]

1. Subpart J is amended by deleting §§ 71.152 and 71.153.

2. A new subpart is added immediately following § 71.157 as follows:

Subpart J-1—Importation of Psittacine Birds

Sec.

- 71.161 Definitions.
- 71.162 Requests for information.
- 71.163 Psittacine bird treatment centers.
- 71.164 Entry restrictions.
- 71.165 Disposal of excluded birds.
- 71.166 Penalties.

AUTHORITY: The provisions of this Subpart J-1 issued under sec. 361, 58 Stat. 703; 42 U.S.C. 264.

Subpart J-1—Importation of Psittacine Birds

§ 71.161 Definitions.

As used in this subpart, the term:

(a) "Psittacine birds" includes birds commonly known as parrots, Amazons, African grays, cockatoos, macaws, parrotlets, beebees, parakeets, lovebirds, lorries, lorikeets, and all other birds of the order Psittaciformes.

(b) "United States" means the United States, its territories, and possessions (other than the Canal Zone).

§ 71.162 Requests for information.

All requests for instructions, application forms, and other information relating to the regulations in this part should be addressed to the Chief, Foreign Quarantine Program, National Communicable Disease Center, U.S. Public Health Service, Atlanta, Ga. 30333, or to Public Health Service quarantine stations at U.S. ports of entry.

§ 71.163 Psittacine bird treatment centers.

(a) **Approval of treatment centers—**
(1) **Minimum standards for approval.** To be eligible for approval, psittacine bird treatment centers shall meet the following minimum standards and such other requirements as shall be determined by the Surgeon General as necessary for the proper care and treatment of psittacine birds.

(i) They will be located outside of the United States.

(ii) They will be so constructed as to provide adequate sanitation.

(iii) They will be under the direction and supervision of a director approved by the Surgeon General as qualified by experience, education, and training to supervise and direct the operations of the center.

(iv) They will provide access to the treatment center and to books and records thereof, to authorized representatives of the Surgeon General for inspection purposes.

(v) They will, upon request of the Surgeon General, provide samples of psittacine birds and specimens of psittacine bird blood, food, feces, medication, and related material which the Surgeon General deems necessary to ascertain the compliance of the center with procedures and medication approved by the Surgeon General for psittacine bird treatment.

(vi) They will maintain complete records of all birds received, treated, and shipped including date of each shipment, and name and address of consignee.

(2) **Application for approval.** Application for approval of a treatment center shall be addressed to: Chief, Foreign Quarantine Program, National Communicable Disease Center, U.S. Public Health Service, Atlanta, Ga. 30333. The application shall be made on a form prescribed by the Surgeon General and shall provide the following information and any other information which the Surgeon General may deem necessary in determining that satisfactory disease prevention measures will be provided in the care, treatment, shipment, and handling of psittacine birds.

(i) The name and address of the treatment center.

(ii) A detailed description of the treatment center including:

(a) A plat showing location of the treatment center building(s) with respect to other adjacent buildings and structures;

(b) Floor plans of the treatment center building(s); and

(c) A description of the type of building construction.

(iii) A statement of measures that will be used to maintain good sanitation and protect the health of the birds.

(iv) A statement of the method to be used for assaying the medication used in the treatment of the birds, and the name and address of the laboratory that will make the assays.

(v) Evidence satisfactory to the Surgeon General that the treatment center director meets the requisites of subparagraph (1) (iii) of this paragraph.

(3) **Issuance of certificate of approval.** If the Surgeon General finds that the treatment center meets the requisites of approval as established by subparagraphs (1) and (2) of this paragraph, he will issue a certificate of approval which will be valid until suspended or revoked.

(b) **Suspension of certificate of approval, and opportunity for hearing.** Whenever the Surgeon General has reasonable ground to believe that a treatment center is not conforming to the requirements of this subpart, he may, upon notice to the treatment center, suspend the certificate of approval, and provide reasonable opportunity for a hearing thereon. The hearing will be within the United States at a place designated by the Surgeon General.

(c) **Revocation of certificate of approval.** The Surgeon General shall re-

voke a certificate of approval whenever a treatment center whose certificate of approval has been suspended, fails to avail itself of the hearing opportunity; or when after such hearing, the Surgeon General determines that any of the reasons for suspension remain uncorrected and warrant revocation.

(d) **Reinstatement of certificate of approval.** A certificate of approval which has been suspended may be reinstated upon a showing of compliance with required standards and upon such inspection, examination and assurance of continued compliance as may be considered necessary by the Surgeon General.

§ 71.164 Entry restrictions.

(a) **Health of birds—(1) Disease-free appearance.** Except for birds brought in under the special provisions of subparagraph (3) of this paragraph, and of paragraph (c) of this section, psittacine birds shall be permitted entry into the United States only if all birds in the shipment appear to the quarantine officer at the port of entry to be free from evidence of communicable disease.

(2) **Specimens for study by Public Health Service.** Upon arrival at a U.S. port of entry, of a shipment of psittacine birds from an approved psittacine bird treatment center, the quarantine officer may take specimens of psittacine bird blood, feces, medication, and related material from such shipment, for laboratory study. If the owner or his representative refuses permission for the taking of such specimens, the shipment shall be denied entry.

(3) **Admission of birds not appearing to be disease-free and of exposed birds.** When a bird, upon arrival at a U.S. port of entry, shows symptoms suggestive of communicable disease (but other entry requirements are met), the medical officer in charge may authorize its admission and admission of healthy appearing birds in the shipment if he is satisfied that adequate protection against introduction of communicable disease will be provided by measures arranged and paid for by the owner. Such measures shall include immediate isolation of the birds and immediate care by a specific licensed veterinarian who shall provide necessary treatment with approved medication and report the birds' condition to the medical officer in charge before the birds are released from isolation.

(b) **Entry document for birds from treatment centers.** Each shipment of psittacine birds from an approved treatment center shall be accompanied by an entry document prescribed by the Surgeon General. This document shall show the treatment center certificate of approval number, shall identify the birds by quantity and kind, shall show the name and address of the consignee, shall be subscribed and sworn to by the treatment center director, before a U.S. Consular or Embassy official in the country where the treatment center is located; and shall contain a certification by said director as to the following points:

(1) **Certification of treatment at treatment center.** That for a minimum of

45 consecutive days immediately before shipment to the United States the birds have been confined in said treatment center and treated with chlortetracycline, or other approved medication, prepared and administered in accordance with procedures approved by the Surgeon General for psittacosis control.

(2) *Certification of treatment and segregation of birds during shipment to the United States.* That arrangements have been made whereby such medication will be continued during shipment of psittacine birds to the United States, that during such shipment said birds will be confined in different cages from any other birds, and that said cages and any outer containers therefor will be so constructed as to permit easy observation of the birds.

(c) *Birds imported for medical research.* Psittacine birds intended for use in medical research may be permitted entry into the United States without prior confinement and treatment if the following conditions are met.

(1) *Permit.* They are accompanied by a permit issued by the Surgeon General. Application for the permit shall be submitted by the person seeking to import the birds for medical research purposes, and shall contain such information and assurances as the Surgeon General may require concerning use of the birds in the proposed research.

(2) *Scientific use.* The scientific basis for the use of untreated birds is established to the satisfaction of the Surgeon General.

(3) *Protection against disease.* The birds are imported under conditions prescribed by the Surgeon General to minimize the risk of introduction of communicable disease into the United States.

(4) *Disease-free appearance.* They appear to the quarantine officer at the port of entry to be free from evidence of communicable disease, unless otherwise specified in the permit, or admission is authorized pursuant to paragraph (a) (3) of this section.

(d) *Certain birds imported by a zoological park.* Psittacine birds which, in the opinion of the Surgeon General, cannot be treated satisfactorily as specified in paragraph (b) (1) of this section at an approved treatment center outside the United States, may be imported by a zoological park without prior confinement and medication if the following conditions are met.

(1) *Permit.* They are accompanied by a special permit issued by the Surgeon General, pursuant to an application made therefor.

(2) *Restriction on disposition of birds.* Assurance is given that the birds will not be sold or given, either directly or indirectly, to any private individual or dealer in birds.

(3) *Disease-free appearance.* They appear to the quarantine officer at the port of entry to be free from evidence of communicable disease, unless admission is authorized pursuant to paragraph (a) (3) of this section.

(4) *Treatment facilities and staff.* The zoological park has a staff veterinarian

and facilities for isolating psittacine birds, and has been approved by the Surgeon General for purposes of the regulations in this part.

(5) *Isolation and treatment.* On arrival at the zoological park the birds will be isolated for at least 45 days, and throughout that period will be treated with approved medication under conditions satisfactory to the Surgeon General.

(e) *Birds imported as pets.* Psittacine birds intended as pets may be imported by the persons who intend to keep them as pets, without prior confinement and treatment, if the following conditions are met.

(1) *Disease-free appearance.* The birds appear to the quarantine officer at the port of entry to be free from evidence of communicable disease, unless admission is authorized pursuant to paragraph (a) (3) of this section.

(2) *Certificate.* The owner submits a written statement certifying the following points.

(i) That not more than a total of two (2) birds are imported under this paragraph in any 12-month period by members of a family comprising a single household.

(ii) That the birds are not intended for sale or trade in the United States.

(iii) That the requirements of (a) or (b) and of (c) of this subparagraph, will be met.

(a) If the birds have been in the owner's possession and personal custody for at least 90 days immediately before arrival, except for any period occasioned by arrival of the owner and birds on separate conveyances, the owner shall submit a written certification that upon admission, the birds will be treated for 45 days with chlortetracycline or other approved medication. Medication may be administered on the premises of the owner of the birds, but must be under the supervision of a licensed veterinarian, and at the owner's expense. If the owner has not made the necessary arrangements with a licensed veterinarian before arrival of the birds, they shall be excluded unless he arranges for such supervision promptly upon their arrival at the port of entry. Pending such arrangements, the owner shall have the birds held in such a manner that the quarantine officer is satisfied that they do not present a serious health hazard.

(b) If the birds have been in the owner's possession and personal custody immediately before arrival, but for less than 90 days, the owner shall certify in writing that upon admission, the birds will be confined and treated with chlortetracycline or other approved medication for 45 days, in detention facilities on the premises of and under immediate care of a licensed veterinarian. Detention and medication will be accomplished at the owner's expense. Such veterinarian's detention facilities may be located either at the port of arrival or elsewhere in the United States. If the owner has not made the necessary arrangements with a veterinarian before arrival of the birds, they shall be excluded unless he promptly makes such arrangements with a veter-

inarian on whose premises the required detention and medication will be accomplished. Pending the making of such arrangements, the owner shall provide for having the birds held in such a manner that the quarantine officer is satisfied that they do not present a significant health hazard.

(c) The owner or the veterinarian shall report promptly to the quarantine officer at the port of entry any sickness or death of the birds during the required period of medication and follow the quarantine officer's instructions concerning measures to prevent the spread of infection.

(f) *Birds being returned to the United States.* When psittacine birds have been taken out of the United States and the requirements of paragraph (e) of this section are not fully complied with upon their return, they may be admitted provided the following conditions are met.

(1) *Disease-free appearance.* They appear to the quarantine officer at the port of entry to be free from evidence of communicable disease, unless admission is authorized pursuant to paragraph (a) (3) of this section.

(2) *Permit.* They are accompanied by a permit for return issued by the Surgeon General. Application for such permit may be denied unless the owner of the birds applies for the permit before their departure from the United States and the application includes a statement as to the itinerary, the number and description of the birds, and such other information as the Surgeon General may require.

(3) *Required information and certification.* At the port of entry the owner furnishes any information that may be required by the Surgeon General, and submits a written statement certifying the following.

(i) That he has complied with the terms of the permit.

(ii) That upon admission the birds will be treated for 45 days with chlortetracycline or other approved medication. The medication may be administered on the premises of the owner of the birds, but must be under the supervision of a licensed veterinarian, and at the owner's expense.

(iii) That the owner has arranged with a licensed veterinarian for such supervision. If the owner has not made the necessary arrangements before arrival of the birds, they shall be excluded unless he arranges for such supervision promptly upon their arrival at the port of entry. Pending the making of such arrangements, the owner shall provide for having the birds held in such a manner that the quarantine officer is satisfied that they do not present a significant health hazard.

(iv) That the owner or the veterinarian will report promptly to the quarantine officer at the port of entry any sickness or death of the birds during the required period of medication, and follow the quarantine officer's instructions concerning measures to prevent the spread of infection.

(g) *Permits: Terms and cancellation.* Any permit issued under paragraph (c),

RULES AND REGULATIONS

(d), or (f) of this section may contain such conditions and safeguards as the Surgeon General may deem advisable. The permit shall be subject to cancellation if procured or used in a manner inconsistent with this section.

§ 71.165 Disposal of excluded birds.

(a) *Birds with healthy appearance.* Healthy appearing psittacine birds which are excluded from admission under these regulations shall, at the owner's option, be exported or destroyed, or given to a research facility or zoological park under arrangements approved by the quarantine officer for preventing the spread of infection. Exportation shall be permitted only if the owner exports the birds within a reasonable time as determined by the medical officer in charge. Pending disposal, the birds shall be detained at the port of entry at the owner's expense.

(b) *Birds with symptoms suggestive of psittacosis.* Psittacine birds which show symptoms suggestive of psittacosis on arrival shall be destroyed promptly unless admission is authorized pursuant to paragraph (a) (3) of § 71.164. Psittacine birds which develop symptoms suggestive of psittacosis while detained pending disposal shall be destroyed promptly unless the medical officer in charge is satisfied that measures arranged and paid for by the owner will provide adequate protection against introduction of communicable disease into the United States.

§ 71.166 Penalties.

Any person violating any provision of §§ 71.161 through 71.165 shall be subject to punishment by fine of not more than \$1,000 or imprisonment for not more than 1 year, or both, as provided in section 368(a) of the Public Health Service Act (42 U.S.C. 271(a)).

[F.R. Doc. 67-111928; Filed, Oct. 9, 1967; 8:49 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4287]

[Oregon 202]

OREGON

Revocation of Air Navigation Site Withdrawals

By virtue of the authority contained in section 4 of the act of May 24, 1928 (45 Stat. 729; 49 U.S.C. 214), it is ordered as follows:

1. The departmental orders of September 29, 1931, August 10, 1931, and January 3, 1933, withdrawing the following described lands for use by the Department of Commerce in the maintenance of air navigation facilities, are hereby revoked:

WILLAMETTE MERIDIAN

T. 34 S., R. 6 W.,
Sec. 23, N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 24, NW $\frac{1}{4}$ SW $\frac{1}{4}$.

The areas described aggregate approximately 120 acres in Josephine County, of which those in section 23 are reverted Oregon and California Railroad grant lands.

The lands are situated 12 miles north of Grants Pass, Oreg., at an elevation of about 3,800 feet at the summit of Sexton Mountain. The lands generally support a growth of Douglas fir, native shrubs, forbs, and grasses.

2. At 10 a.m. on November 9, 1967, the reverted Oregon and California Railroad grant land shall be open to such forms of disposition as may by law be made of such land.

3. Until 10 a.m. on April 6, 1968, the State of Oregon shall have a preferred right of application to select the public land as provided by R.S. 2276 as amended (43 U.S.C. 852). After that time the land shall be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on April 6, 1968, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The lands will be open to location under the U.S. mining laws at 10 a.m. on April 6, 1968. They have been open to applications and offers under the mineral leasing laws.

5. An airways beacon on a 62-foot tower and a small building have been erected by the United States upon the lands. Additionally, a heliport has been constructed and is being operated and maintained upon the lands under authority of the United States. These improvements, together with sufficient lands necessary for the operation and maintenance thereof, constitute an appropriation of the land by the United States, and bar private appropriation thereof. These tracts, together with access ways thereto, are identified upon the records of the Bureau of Land Management at Portland, Oreg.

Inquiries should be addressed to the Manager, Land Office, Bureau of Land Management, Portland, Oreg.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

OCTOBER 4, 1967.

[F.R. Doc. 67-11881; Filed, Oct. 9, 1967; 8:45 a.m.]

[Public Land Order 4288]

[Utah 0122689]

UTAH

Withdrawal for Reclamation Project

By virtue of the authority contained in section 3 of the act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), as amended and supplemented, including section 8 of the act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g), it is ordered as follows:

Subject to valid existing rights, the following described public lands, which are under the jurisdiction of the Secre-

tary of the Interior, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved for the Flaming Gorge Unit, Colorado River Storage Project;

SALT LAKE MERIDIAN

T. 3 N., R. 22 E.,

Sec. 18, lots 1 to 6, inclusive, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$.

The areas described aggregate 389.73 acres in Daggett County.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

OCTOBER 4, 1967.

[F.R. Doc. 67-11882; Filed, Oct. 9, 1967; 8:45 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Seney National Wildlife Refuge, Mich.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

MICHIGAN

SENEY NATIONAL WILDLIFE REFUGE

Public hunting of deer and bear on the Seney National Wildlife Refuge is permitted from 6 a.m. to 7 p.m., local prevailing time from November 18, 1967, through December 3, 1967, only on the area designated by signs as open to hunting. This open area, comprising 85,200 acres, is delineated on a map available at the refuge headquarters, Seney, Mich., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer and bear subject to the following special conditions:

(1) Camping is permitted only west of the Driggs River. A Federal permit obtainable at refuge headquarters and a State Camp Registration obtainable at refuge headquarters or any State Conservation Field Office are required for camping.

(2) All motorized conveyances are prohibited from traveling on dikes or off established roads and trails. Motorized bikes and snowsleds are not permitted on the refuge.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32

and are effective through December 3, 1967.

JOHN E. WILBRECHT,
Refuge Manager, Seney Na-
tional Wildlife Refuge, Seney,
Mich.

OCTOBER 2, 1967.

[F.R. Doc. 67-11879; Filed, Oct. 9, 1967;
8:45 a.m.]

PART 32—HUNTING

Audubon National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.32 Special regulations; big game;
for individual wildlife refuge areas.

NORTH DAKOTA

AUDUBON NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Audubon National Wildlife Refuge, N. Dak., is permitted only on the area designated by signs as open to hunting. This open area, comprising 13,837 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sports Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special conditions:

(1) Hunting is permitted from 12 noon, c.s.t., to sunset November 10, and from sunrise to sunset November 11, through November 19, 1967.

(2) All hunters must exhibit their hunting license, deer tag, game, and vehicle contents to Federal and State officers upon request.

(3) Vehicular travel, including the use of boats, is prohibited by hunters on the refuge during the deer season.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 19, 1967.

DAVID C. MCGLAUCHLIN,
Refuge Manager, Audubon Na-
tional Wildlife Refuge, Cole-
harbor, N. Dak.

OCTOBER 3, 1967.

[F.R. Doc. 67-11880; Filed, Oct. 9, 1967;
8:45 a.m.]

PART 32—HUNTING

Des Lacs National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.32 Special regulations; big game;
for individual wildlife refuge areas.

NORTH DAKOTA

DES LACS NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Des Lacs National Wildlife Refuge, N. Dak., is per-

mitted only on the area designated by signs as open to hunting. This open area, comprising 17,740 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following conditions:

(1) Hunting is permitted from 12 noon to sunset November 10 and from sunrise to sunset November 11, 1967, through November 19, 1967.

(2) All hunters must exhibit their hunting license, deer tag, game, and vehicle contents to Federal and State officers upon request.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 19, 1967.

HOMER L. BRADLEY,
Refuge Manager, Des Lacs Na-
tional Wildlife Refuge, Ken-
mare, N. Dak.

OCTOBER 3, 1967.

[F.R. Doc. 67-11899; Filed, Oct. 9, 1967;
8:46 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Adminis- tration, Department of Transporta- tion

[Airworthiness Docket No. 67-SW-65; Amdt.
39-492]

PART 39—AIRWORTHINESS DIRECTIVES

Aero Commander Models 560E, 680, 680E, and 720 Airplanes

There has been a fatigue crack detected which may have caused the failure of the lower front spar cap on an Aero Commander Model 560E airplane. Since this condition is likely to exist or develop in other airplanes of the same type, an Airworthiness Directive is being issued to require a one-time inspection of Aero Commander Models 560E, 680, 680E, and 720 airplanes.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of Aero Commander Models 560E, 680, 680E, and 720 airplanes by individual airmail letters dated October 5, 1967. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

In consideration of the foregoing, and pursuant to the authority delegated by

the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

AERO COMMANDER DIVISION, NORTH AMERICAN
ROCKWELL CORPORATION. Applies to Aero
Commander Model 560E, 680, 680E, and
720 airplanes.

Compliance required within the next 25 hours' time in service after the effective date of this AD unless already accomplished.

To detect cracks in the lower front spar cap between wing station 67 and 85 on each wing, accomplish either (a) or (b) of the following:

(a) Perform visual and dye penetrant inspection in accordance with Aero Commander Service Bulletin Number 82 dated September 29, 1967. To facilitate inspection, a top wing access door may be installed in accordance with instructions contained in Aero Commander's letter to all owners and operators dated October 3, 1967.

(b) Inspect in accordance with procedures approved by the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region, Fort Worth, Tex.

If cracks are detected during above inspections, contact Aero Commander for approved repair or repair in accordance with a method approved by the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region, Fort Worth, Tex.

Upon completion of the inspection, positive or negative findings including total time in service shall be forwarded to the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region, Fort Worth, Tex.

This amendment becomes effective upon publication in the FEDERAL REGISTER for all persons except those to whom it was made effective immediately by telegram dated October 5, 1967.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1959; 49 U.S.C. 1354(a), 1421, and 1423)

Issued in Fort Worth, Tex., on October 5, 1967.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 67-12976; Filed, Oct. 9, 1967;
12:45 p.m.]

[Airspace Docket No. 67-AL-3]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Control Areas

On August 16, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 11804) stating that the Federal Aviation Administration (FAA) was considering the designation of offshore control areas in the vicinity of the west coast of Alaska; the Alaskan Peninsula and the Aleutian Islands, Alaska.

On September 14, 1967, a supplemental notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 10379) extending the time for which comments would be received on the Notice until September 26, 1967.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

Since the actions taken herein involve, in part, the designation of navigable air-

space outside the United States, the Administrator has consulted with the Secretary of State and Secretary of Defense in accordance with the provisions of Executive Order 10854. During this coordination, the Department of the Navy questioned the proposed 200 nautical miles width to Control 1234 as it appears to exceed FAA requirements. The proposed width of Control 1234 is required so that domestic air traffic control separation standards can be applied within the service volume range of the navigational aids which are in the National Airspace System. The designation of Control 1234 as proposed will permit a more efficient air traffic control service to be provided to the increasing number of aircraft operating along and adjacent to the Aleutian Islands.

Subsequent to publication of the notice, it was determined that concurrent action to redescribe the Anchorage CTA/FIR would delete the western boundary of Control 1401 and 1484 which are bounded in part by the CTA/FIR. Accordingly, action is taken herein to redescribe the western boundary of Control 1401 and Control 1484 as long. 160°00'00" W. This action in turn makes it necessary to make a slight alteration to the northeast corner of proposed Control 1234, so that it will be compatible with the altered west boundary of Control 1401.

Since these changes to Control 1401, 1484, and 1234 are minor and editorial in nature and will impose no undue burden on any person, the Administrator

has determined that notice and public procedure thereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., December 7, 1967, as hereinafter set forth.

1. Section 71.163 (32 F.R. 2063) is amended as follows:

a. Control 1234 is added to read as follows:

CONTROL 1234

That airspace extending upward from 2,000 feet above the surface within an area bounded by a line beginning at: lat. 58°07'00" N., long. 161°46'00" W.; to lat. 53°30'00" N., long. 160°00'00" W.; to lat. 51°24'00" N., long. 167°49'00" W.; to lat. 50°08'00" N., long. 176°34'00" W.; to lat. 51°05'00" N., long. 173°44'00" E.; to lat. 51°30'00" N., long. 170°00'00" E.; to lat. 54°40'40" N., long. 170°00'00" E.; to lat. 54°49'00" N., long. 170°12'30" E.; to lat. 54°23'00" N., long. 174°30'00" E.; to lat. 53°36'00" N., long. 176°47'00" W.; to lat. 54°33'00" N., long. 169°58'00" W.; to lat. 56°39'00" N., long. 164°25'00" W.; to lat. 57°46'00" N., long. 161°46'00" W.; thence to point of beginning.

b. Control 1235 is added to read as follows:

CONTROL 1235

That airspace extending upward from 14,500 feet MSL to FL 450 within the area bounded by a line beginning at lat. 53°30'00" N., long. 160°00'00" W.; to lat. 56°00'00" N., long. 153°00'00" W.; to lat. 59°09'00" N., long. 147°18'00" W.; thence clockwise via the arc of a 172-mile radius circle centered on the Anchorage, Alaska, VORTAC to lat. 58°50'00" N., long. 151°58'00" W.; thence

clockwise via the arc of a 172-mile radius circle centered on the King Salmon, Alaska, VORTAC to long. 160°00'00" W.; thence to point of beginning, excluding the portion that lies within the Continental Control Area, Control 1217, Control 1218, Control 1484, Federal airways and the Kodiak, Alaska, transition area.

c. Control 1236 is added to read as follows:

CONTROL 1236

That airspace extending upward from 14,500 feet MSL to FL 450 within the area bounded by a line beginning at: lat. 60°00'00" N., long. 170°00'00" W.; to lat. 61°00'00" N., long. 165°00'00" W.; to lat. 60°00'00" N., long. 164°00'00" W.; to lat. 60°00'00" N., long. 160°00'00" W.; to lat. 57°00'00" N., long. 160°00'00" W.; to lat. 60°00'00" N., long. 168°00'00" W.; thence to the point of beginning, excluding the portion that lies within the Continental Control Area, Control 1234, Control 1483 and Control 1400.

d. In Control 1401 and Control 1484 "to the east boundary of the Anchorage Oceanic Control Area" is deleted wherever it appears and "to long. 160°00'00" W." is substituted therefor.

(Secs. 307(a), 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1510); and Executive Order 10854 (24 F.R. 9565))

Issued in Washington, D.C., on October 4, 1967.

T. McCORMACK,
Acting Chief, Airspace and
Air Traffic Rules Division.

[F.R. Doc. 67-11912; Filed, Oct. 9, 1967;
8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 32]

CABEZA PRIETA GAME RANGE, ARIZ.

Hunting

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), and the Endangered Species Preservation Act of October 15, 1966 (80 Stat. 926, 16 U.S.C. 668aa), it is proposed to amend 50 CFR 32.31 by the addition of the Cabeza Prieta Game Range, Ariz., to the list of areas open to the hunting of big game, as legislatively permitted.

It has been determined that regulated hunting of big game may be permitted as designated on the Cabeza Prieta Game Range without detriment to the objectives for which the area was established.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections, with respect to this proposed amendment, to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

Section 32.31 is amended by the following addition:

§ 32.31 List of open areas; big game.

* * * * *
ARIZONA
Cabeza Prieta Game Range.

* * * * *
J. P. LINDUSKA,
Acting Director, Bureau of
Sport Fisheries and Wildlife.

OCTOBER 5, 1967.

[F.R. Doc. 67-11903; Filed, Oct. 9, 1967;
8:47 a.m.]

[50 CFR Parts 32, 33]

CERTAIN WILDLIFE REFUGES IN NEW MEXICO AND TEXAS

Hunting and Fishing

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), and the Endangered Species Preservation Act of October 15, 1966 (80 Stat. 926, 16 U.S.C. 668aa), it is proposed to amend 50 CFR 32.21 and 33.4 by the addi-

tion of Bosque del Apache National Wildlife Refuge, N. Mex., to the list of areas open to the hunting of upland game; and Brazoria National Wildlife Refuge, Tex., to the list of areas open to sport fishing.

It has been determined that the regulated hunting of upland game and sport fishing may be permitted as designated on the above national wildlife refuges without detriment to the objectives for which the areas were established.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to this proposed amendment to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240, within 15 days of the date of publication of this notice in the FEDERAL REGISTER.

1. Section 32.21 is amended by the following addition:

§ 32.21 List of open areas; upland game.

* * * * *
New Mexico
Bosque del Apache National Wildlife Refuge.

2. Section 33.4 is amended by the following addition:

§ 33.4 List of open areas; sport fishing.

* * * * *
TEXAS
Brazoria National Wildlife Refuge.

* * * * *
J. P. LINDUSKA,
Acting Director, Bureau of
Sport Fisheries and Wildlife.

OCTOBER 5, 1967.

[F.R. Doc. 67-11904; Filed, Oct. 9, 1967;
8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 967]

CELERY GROWN IN FLORIDA

Expenses and Rate of Assessment

Consideration is being given to the approval of proposed expenses and a proposed rate of assessment, as herein-after set forth, which were recommended by the Florida Celery Committee.

This committee was established pursuant to Marketing Agreement No. 149 and Marketing Order No. 967 (7 CFR Part 967), herein referred to collectively as the "order." The order regulates the handling of celery grown in Florida, and is effective under the Agricultural Mar-

keting Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with these proposals may file the same, in quadruplicate, with the Hearing Clerk, Room 112-A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the 15th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made Agriculture, Washington, D.C. 20250, not later than the 15th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made Agriculture, Washington, D.C. 20250, not later than the 15th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made Agriculture, Washington, D.C. 20250, not later than the 15th day after the publication of this notice in the FEDERAL REGISTER.

The proposals are as follows:

§ 967.203 Expenses and rate of assessment.

(a) The expenses that are reasonable and likely to be incurred during the fiscal year August 1, 1967, through July 31, 1968, by the Florida Celery Committee for its maintenance and functioning and for such purposes as the Secretary may determine to be appropriate, will amount to \$38,500.

(b) The rate of assessment to be paid by each handler in accordance with the marketing agreement and this part shall be one half of one cent (\$0.005) per crate of celery handled by him as the first handler thereof during said fiscal year.

(c) As provided in § 967.42, unexpended income in excess of expenses for the fiscal year ending July 31, 1968, may be carried over as an operating reserve.

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: October 4, 1967.

F. L. SOUTHERLAND,
Acting Director, Fruit and Vegetable
Division, Consumer and
Marketing Service.

[F.R. Doc. 67-11901; Filed, Oct. 9, 1967;
8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 67-CE-109]

FEDERAL AIRWAY

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a Federal airway from Green Bay, Wis., direct to Traverse City, Mich., as V-420.

PROPOSED RULE MAKING

This action would provide controlled airspace for scheduled air carrier flights between Green Bay and Traverse City.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on October 4, 1967.

T. McCORMACK,
*Acting Chief, Airspace and
Air Traffic Rules Division.*

[F.R. Doc. 67-11913; Filed, Oct. 9, 1967;
8:47 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A 1351]

ARIZONA

Notice of Proposed Classification of Public Lands for Multiple-Use Management

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18) and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify for multiple-use management the public lands described below, within the West Hurricane-Virgin Resource Area, together with any lands therein that may become public lands in the future. Publication of this notice has the effect of segregating all of the described lands from appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9, 25 U.S.C. 334), and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171). It also has the effect of further segregating the lands described in paragraph 3b from private exchange (43 U.S.C. 315g(b)), State exchange (43 U.S.C. 315g(c)), and from the operation of the mining laws. The lands shall remain open to the operation of the mineral leasing laws. As used in this order, the term "public lands" means any lands (1) withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or (2) within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269) as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. The public lands proposed for classification in this notice are shown on maps on file and available for inspection in the Arizona Strip District Office, Bureau of Land Management, St. George, Utah, and Land Office, Bureau of Land Management, Federal Building, Phoenix, Ariz.

3. The lands involved are in Mohave County and are described as follows:

GILA AND SALT RIVER MERIDIAN, ARIZONA

a. As provided in paragraph 1 above, the following lands are segregated from entry under the agricultural land laws and from public sale under R.S. 2455.

T. 33 N., R. 8 W.,
Sec. 5, west of the irregular boundary of Grand Canyon National Monument;
Secs. 6 and 7;
Secs. 8 and 17, west of the irregular boundary of Grand Canyon National Monument;
Sec. 18.
T. 33 N., R. 9 W.,
Secs. 1 to 18, inclusive.
T. 33 N., R. 10 W.,
Secs. 1 to 18, inclusive.
T. 33 N., R. 11 W.,
Secs. 1 to 36, inclusive.

T. 33 N., R. 12 W.,
Secs. 4 to 9, inclusive, secs. 16 to 21, inclusive, and secs. 28 to 33, inclusive.

T. 33 N., R. 13 W.,
Secs. 1 to 36, inclusive.

T. 33 N., R. 14 W.,
Secs. 1 to 36, inclusive.

T. 33 N., R. 15 W.,
Secs. 1 to 3, inclusive, secs. 10 to 16, inclusive, secs. 22 to 27, inclusive, and secs. 34 to 36, inclusive.

T. 34 N., R. 8 W.,
Sec. 19, W $\frac{1}{2}$;

Sec. 29, west of the irregular boundary of Grand Canyon National Monument;

Secs. 30 to 31;

Sec. 32, west of the irregular boundary of Grand Canyon National Monument.

T. 34 N., R. 9 W.,
Secs. 5 to 8, inclusive;

Sec. 14, NW $\frac{1}{4}$ and S $\frac{1}{2}$;

Secs. 15 to 36, inclusive.

T. 34 N., R. 10 W.,
Secs. 4 to 9, inclusive;

Sec. 10, S $\frac{1}{2}$;

Secs. 11 to 36, inclusive.

T. 34 N., R. 11 W.,
Secs. 1 to 36, inclusive.

T. 34 N., R. 12 W.,
Secs. 1 to 36, inclusive.

T. 34 N., R. 13 W.,
Secs. 1 to 3, inclusive;

Sec. 4, lots 1 to 4, inclusive, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;

Sec. 5, W $\frac{1}{2}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 8, W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 9, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and SE $\frac{1}{4}$;

Secs. 10 to 20, inclusive;

Sec. 21, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Secs. 22 to 36, inclusive.

T. 34 N., R. 14 W.,
Secs. 1 to 36, inclusive.

T. 34 N., R. 15 W.,
Secs. 1 to 36, inclusive.

T. 34 N., R. 16 W.,
Secs. 1 to 36, inclusive.

T. 35 N., R. 9 W.,
Secs. 29 to 32, inclusive.

T. 35 N., R. 10 W.,
Sec. 19;

Sec. 25, SE $\frac{1}{4}$;

Sec. 30, W $\frac{1}{2}$;

Sec. 31.

T. 35 N., R. 11 W.,
Secs. 1 to 36, inclusive.

T. 35 N., R. 12 W.,
Secs. 1 to 32, inclusive;

Sec. 33, S $\frac{1}{2}$;

Secs. 34 to 36, inclusive.

T. 35 N., R. 13 W.,
Secs. 1 to 28, inclusive;

Sec. 29, N $\frac{1}{2}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;

Sec. 30, NE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;

Secs. 31 to 36, inclusive.

T. 35 N., R. 14 W.,
Secs. 1 to 36, inclusive.

T. 35 N., R. 15 W.,
Secs. 1 to 36, inclusive.

T. 35 N., R. 16 W.,
Secs. 1 to 36, inclusive.

T. 36 N., R. 10 W.,
Secs. 6, 7, 18, 19, and 30.

T. 36 N., R. 11 W.,
Secs. 1 to 36, inclusive.

T. 36 N., R. 12 W.,
Secs. 1 to 36, inclusive.

T. 36 N., R. 13 W.,
Secs. 1 to 36, inclusive.

T. 36 N., R. 14 W.,
Secs. 1 to 33, inclusive;
Sec. 34, W $\frac{1}{2}$ and SE $\frac{1}{4}$;

Sec. 35, S $\frac{1}{2}$;

Sec. 36.

T. 36 N., R. 15 W.,
Secs. 1 to 36, inclusive.

T. 36 N., R. 16 W.,
Secs. 1 to 36, inclusive.

T. 37 N., R. 9 W.,
Secs. 3 to 9, inclusive, and Secs. 16 to 20, inclusive.

T. 37 N., R. 10 W.,
Secs. 1 to 36, inclusive.

T. 37 N., R. 11 W.,
Secs. 1 to 36, inclusive.

T. 37 N., R. 12 W.,
Secs. 1 to 36, inclusive.

T. 37 N., R. 13 W.,
Secs. 1 to 36, inclusive.

T. 37 N., R. 14 W.,
Secs. 1 to 36, inclusive.

T. 37 N., R. 15 W.,
Secs. 1 to 36, inclusive.

T. 37 N., R. 16 W.,
Secs. 1 to 36, inclusive.

T. 38 N., R. 9 W.,
Secs. 3 to 9, inclusive, secs. 16 to 21, inclusive, and secs. 25 to 34, inclusive.

T. 38 N., R. 10 W.,
Secs. 1 to 36, inclusive.

T. 38 N., R. 11 W.,
Secs. 1 to 36, inclusive.

T. 38 N., R. 12 W.,
Secs. 1 to 36, inclusive.

T. 38 N., R. 13 W.,
Secs. 1 to 36, inclusive.

T. 38 N., R. 14 W.,
Secs. 1 to 36, inclusive.

T. 38 N., R. 15 W.,
Secs. 1 to 36, inclusive.

T. 38 N., R. 16 W.,
Secs. 1 to 36, inclusive.

T. 39 N., R. 9 W.,
Sec. 19;

Secs. 30 to 32, inclusive.

T. 39 N., R. 10 W.,
Secs. 1 to 36, inclusive.

T. 39 N., R. 11 W.,
Secs. 1 to 36, inclusive.

T. 39 N., R. 12 W.,
Secs. 1 to 36, inclusive.

T. 39 N., R. 13 W.,
Secs. 1 to 6, inclusive;

Sec. 7, lots 3 and 4, E $\frac{1}{2}$, and E $\frac{1}{2}$ W $\frac{1}{2}$;

Secs. 8 to 17, inclusive;

Sec. 18, lots 1 to 4, inclusive, E $\frac{1}{2}$ and E $\frac{1}{2}$ W $\frac{1}{2}$;

Secs. 19 to 36, inclusive.

T. 39 N., R. 14 W.,
Sec. 1, N $\frac{1}{2}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, and W $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 2, N $\frac{1}{2}$, SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;

Secs. 3 to 6, inclusive;

Sec. 7, E $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$;

Secs. 8 to 10, inclusive;

Sec. 11, W $\frac{1}{2}$ and SE $\frac{1}{4}$;

Sec. 12, S $\frac{1}{2}$ S $\frac{1}{2}$;

Secs. 13 to 15, inclusive;

Sec. 16, E $\frac{1}{2}$ E $\frac{1}{2}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, and W $\frac{1}{2}$ W $\frac{1}{2}$;

Secs. 17 to 20, inclusive;

Sec. 21, NE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;

Secs. 22 to 36, inclusive.

NOTICES

T. 39 N., R. 15 W.,
Secs. 1 to 24, inclusive;
Sec. 25, $E\frac{1}{2}NE\frac{1}{4}$, $N\frac{1}{2}NW\frac{1}{4}NE\frac{1}{4}$, $S\frac{1}{2}SW\frac{1}{4}$
 $NE\frac{1}{4}$, $NW\frac{1}{4}$, and $S\frac{1}{2}$;
Secs. 26 to 36, inclusive.

T. 39 N., R. 16 W.,
Secs. 1 to 5, inclusive, secs. 8 to 17, inclu-
sive, secs. 20 to 29, inclusive, and secs.
32 to 36, inclusive.

T. 40 N., R. 10 W.,
Secs. 4 to 9, inclusive, secs. 15 to 22, in-
clusive, and secs. 24 to 35, inclusive.

T. 40 N., R. 11 W.,
Secs. 1 to 36, inclusive.

T. 40 N., R. 12 W.,
Secs. 1 to 36, inclusive.

T. 40 N., R. 13 W.,
Secs. 1 to 30, inclusive;
Sec. 31, lots 1 and 2, $NE\frac{1}{4}$, $E\frac{1}{2}W\frac{1}{2}$, and
 $SE\frac{1}{4}$;
Secs. 32 to 36, inclusive.

T. 40 N., R. 14 W.,
Secs. 1 to 35, inclusive;
Sec. 36, $N\frac{1}{2}NE\frac{1}{4}$, $SW\frac{1}{4}NE\frac{1}{4}$, $W\frac{1}{2}$, $NW\frac{1}{4}$
 $NW\frac{1}{4}SE\frac{1}{4}$, and $S\frac{1}{2}SE\frac{1}{4}$.

T. 40 N., R. 15 W.,
Secs. 1 to 3, inclusive;
Sec. 4, lots 1 and 3, $SE\frac{1}{4}NW\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$,
and $S\frac{1}{2}SE\frac{1}{4}$;
Secs. 5 to 7, inclusive;
Sec. 8, $NW\frac{1}{4}NE\frac{1}{4}$, $W\frac{1}{2}$, and $S\frac{1}{2}SE\frac{1}{4}$;
Secs. 9 to 36, inclusive.

T. 40 N., R. 16 W.,
Secs. 1 to 5, inclusive, and secs. 8 to 36,
inclusive.

T. 41 N., R. 10 W.,
Secs. 1 to 11, inclusive, secs. 14 to 22, in-
clusive, and secs. 27 to 33, inclusive.

T. 41 N., R. 11 W.,
Secs. 1 and 2;
Sec. 3, lots 1 to 4, inclusive, $S\frac{1}{2}N\frac{1}{2}$, and
 $S\frac{1}{2}$;
Secs. 4 and 5;
Sec. 6, lots 1 to 8, inclusive, $S\frac{1}{2}N\frac{1}{2}$, and
 $S\frac{1}{2}$;
Sec. 7, lots 1 to 4, inclusive, $NE\frac{1}{4}$ and
 $W\frac{1}{2}SE\frac{1}{4}$;
Secs. 8 to 36, inclusive.

T. 41 N., R. 12 W.,
Secs. 1 to 4, inclusive;
Sec. 5, lots 3 and 4, $E\frac{1}{2}$, and $S\frac{1}{2}NW\frac{1}{4}$;
Sec. 6, lots 1 to 5, inclusive, $S\frac{1}{2}NE\frac{1}{4}$ and
 $SE\frac{1}{4}NW\frac{1}{4}$;
Sec. 7, lots 3 and 4, $E\frac{1}{2}SW\frac{1}{4}$ and $SE\frac{1}{4}$;
Sec. 8, $NE\frac{1}{4}$ and $S\frac{1}{2}$;
Secs. 9 to 36, inclusive.

T. 41 N., R. 13 W.,
Sec. 1, lots 1 to 4, inclusive, $S\frac{1}{2}N\frac{1}{2}$ and
 $SW\frac{1}{4}$;
Sec. 3;
Sec. 4, $N\frac{1}{2}SW\frac{1}{4}$ and $SE\frac{1}{4}$;
Secs. 5 to 8, inclusive;
Sec. 9, $N\frac{1}{2}$ and $SE\frac{1}{4}$;
Secs. 10 and 11;
Sec. 12, $NW\frac{1}{4}$ and $S\frac{1}{2}$;
Secs. 13 to 17, inclusive;
Sec. 18, $NE\frac{1}{4}$ and $S\frac{1}{2}$;
Secs. 19 to 36, inclusive.

T. 41 N., R. 14 W.,
Secs. 1 to 11, inclusive;
Sec. 12;
Sec. 13, $N\frac{1}{2}$ and $SW\frac{1}{4}$;
Secs. 14 to 19, inclusive;
Sec. 20, $N\frac{1}{2}SW\frac{1}{4}$ and $SE\frac{1}{4}$;
Sec. 21;
Sec. 22, $N\frac{1}{2}$;
Sec. 23, $E\frac{1}{2}$ and $NW\frac{1}{4}$;
Secs. 24 to 26, inclusive;
Sec. 28, $NW\frac{1}{4}$;
Sec. 29;
Sec. 30, lot 3, $N\frac{1}{2}$, $E\frac{1}{2}SW\frac{1}{4}$, and $SE\frac{1}{4}$;
Sec. 31, $N\frac{1}{2}$, $SW\frac{1}{4}$, and $W\frac{1}{2}SE\frac{1}{4}$;
Sec. 33, $SE\frac{1}{4}$;
Sec. 34, $S\frac{1}{2}N\frac{1}{2}$ and $S\frac{1}{2}$;
Secs. 35 and 36.

T. 41 N., R. 15 W.,
Secs. 1 to 17, inclusive, and secs. 20 to 24,
inclusive;
Sec. 25, $N\frac{1}{2}$, $SW\frac{1}{4}$, $NE\frac{1}{4}SE\frac{1}{4}$, and
 $W\frac{1}{2}SE\frac{1}{4}$;
Secs. 26 to 28, inclusive, and secs. 31 to
34, inclusive;
Sec. 35, $N\frac{1}{2}$ and $SE\frac{1}{4}$.

T. 41 N., R. 16 W.,
Secs. 1 to 5, inclusive, and secs. 8 to 11,
inclusive;
Sec. 13, $W\frac{1}{2}$;
Secs. 14 to 17, inclusive, secs. 20 to 29,
inclusive, and secs. 32 to 36, inclusive.

T. 42 N., R. 10 W.,
Secs. 1 to 36, inclusive.

T. 42 N., R. 11 W.,
Sec. 31, lots 1 and 2, and $SE\frac{1}{4}$;
Secs. 32 to 36, inclusive.

T. 42 N., R. 12 W.,
Sec. 31, lots 1 to 6, inclusive, $E\frac{1}{2}SW\frac{1}{4}$,
and $SE\frac{1}{4}$;
Secs. 32 to 36, inclusive.

T. 42 N., R. 13 W.,
Secs. 31 to 36, inclusive.

T. 42 N., R. 14 W.,
Secs. 31 to 36, inclusive.

T. 42 N., R. 15 W.,
Secs. 31 to 36, inclusive.

T. 42 N., R. 16 W.,
Secs. 32 to 36, inclusive.

The lands described aggregate approxi-
mately 1,299,448 acres of public lands.

b. As provided in paragraph 1 above,
the following lands are segregated from
the agricultural land laws, from public
sale under R.S. 2455, and are further
segregated from private and State ex-
change and from entry under the min-
ing laws.

T. 34 N., R. 13 W.,
Sec. 4, $SW\frac{1}{4}NW\frac{1}{4}$ and $W\frac{1}{2}SW\frac{1}{4}$;
Sec. 5, lots 1 and 2, $S\frac{1}{2}NE\frac{1}{4}$, $N\frac{1}{2}SE\frac{1}{4}$, and
 $SE\frac{1}{4}SE\frac{1}{4}$;
Sec. 9, $W\frac{1}{2}NW\frac{1}{4}$ and $SW\frac{1}{4}$;
Sec. 21, $N\frac{1}{2}N\frac{1}{2}$, $S\frac{1}{2}NE\frac{1}{4}$, and $NE\frac{1}{4}SE\frac{1}{4}$;

T. 35 N., R. 12 W.,
Sec. 33, $N\frac{1}{2}$.

T. 35 N., R. 13 W.,
Sec. 29, $W\frac{1}{2}SW\frac{1}{4}$ and $SE\frac{1}{4}SW\frac{1}{4}$;
Sec. 30, $NW\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$, $N\frac{1}{2}SE\frac{1}{4}$, and
 $SE\frac{1}{4}SE\frac{1}{4}$.

T. 36 N., R. 14 W.,
Sec. 34, $NE\frac{1}{4}$;
Sec. 35, $N\frac{1}{2}$.

T. 39 N., R. 13 W.,
Sec. 7, lot 2.

T. 39 N., R. 14 W.,
Sec. 1, $E\frac{1}{2}NE\frac{1}{4}SW\frac{1}{4}$, $S\frac{1}{2}S\frac{1}{2}$, and $NW\frac{1}{4}$
 $SE\frac{1}{4}$;
Sec. 2, $S\frac{1}{2}SE\frac{1}{4}$;
Sec. 7, $SW\frac{1}{4}NW\frac{1}{4}NE\frac{1}{4}$, $NW\frac{1}{4}SW\frac{1}{4}NE\frac{1}{4}$,
 $SE\frac{1}{4}NE\frac{1}{4}NW\frac{1}{4}$, and $NE\frac{1}{4}SE\frac{1}{4}NW\frac{1}{4}$;
Sec. 11, $NE\frac{1}{4}$;
Sec. 12, $N\frac{1}{2}$ and $N\frac{1}{2}S\frac{1}{2}$;
Sec. 16, $SW\frac{1}{4}NE\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$,
and $W\frac{1}{2}SE\frac{1}{4}$;
Sec. 21, $NW\frac{1}{4}NE\frac{1}{4}$, $SE\frac{1}{4}NE\frac{1}{4}$, and $NE\frac{1}{4}$
 $NW\frac{1}{4}$.

T. 39 N., R. 15 W.,
Sec. 25, $S\frac{1}{2}NW\frac{1}{4}NE\frac{1}{4}$ and $N\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}$.

T. 40 N., R. 13 W.,
Sec. 31, lots 3 and 4.

T. 40 N., R. 14 W.,
Sec. 36, $NE\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$ and $SE\frac{1}{4}SE\frac{1}{4}NE\frac{1}{4}$.

T. 41 N., R. 12 W.,
Sec. 5, $SW\frac{1}{4}$;
Sec. 6, lots 6 and 7, $E\frac{1}{2}SW\frac{1}{4}$, and $SE\frac{1}{4}$;
Sec. 7, lots 1 and 2, $NE\frac{1}{4}$, and $E\frac{1}{2}NW\frac{1}{4}$;
Sec. 8, $NW\frac{1}{4}$.

T. 41 N., R. 13 W.,
Sec. 1, $SE\frac{1}{4}$;
Sec. 9, $SW\frac{1}{4}$;
Sec. 12, $NE\frac{1}{4}$.

T. 41 N., R. 14 W.,
Sec. 13, $SE\frac{1}{4}$;
Sec. 22, $S\frac{1}{2}$;
Sec. 23, $SW\frac{1}{4}$;
Sec. 27;
Sec. 28, $NE\frac{1}{4}$ and $S\frac{1}{2}$;
Sec. 31, $E\frac{1}{2}SE\frac{1}{4}$;
Sec. 32;
Sec. 33, $N\frac{1}{2}$ and $SW\frac{1}{4}$;
Sec. 34, $N\frac{1}{2}N\frac{1}{2}$.

The lands described aggregate approxi-
mately 8,219 acres of public lands.

The lands in the two sections above
aggregate approximately 1,307,667 acres
of public land.

4. For a period of 60 days from the
date of publication of this notice in the
FEDERAL REGISTER, all persons who wish
to submit comments, suggestions, or ob-
jections in connection with the proposed
classification may present their views in
writing to the District Manager, Bureau
of Land Management, 53 North Main, St.
George, Utah 84770.

5. A public hearing on the proposed
classification will be held at 2 p.m., on
November 7, 1967, at the Community
Room of the County Courthouse in St.
George, Utah.

FRED J. WEILER,
State Director.

OCTOBER 3, 1967.

[F.R. Doc. 67-11931; Filed, Oct. 9, 1967;
8:49 a.m.]

National Park Service CERTAIN NATIONAL PARKS AND MONUMENTS IN UTAH

Notice of Public Hearings Regarding Establishment of Wilderness

Notice is hereby given in accordance
with the provisions of the Act of Septem-
ber 3, 1964 (78 Stat. 890, 892; 16 U.S.C.
1131, 1132) that public hearings will be
held for the purpose of receiving com-
ments and suggestions as to the appro-
priateness of proposals for the establish-
ment of wilderness within the Bryce
Canyon National Park, Arches National
Monument, Capitol Reef National Monu-
ment, and Cedar Breaks National Monu-
ment, Utah.

A public hearing will be held beginning
at 9 a.m. on December 11, 1967, in the
Library Lounge of the Library Building,
College of Southern Utah, Third West
and West Center Street, Cedar City,
Utah, concerning a proposal to establish
a wilderness comprising about 4,600 acres
within the Cedar Breaks National Monu-
ment. The proposed wilderness is located
in Iron County, Utah.

A public hearing will be held begin-
ning at 2 p.m. on December 11, 1967, in
the Garfield County Courthouse, 55
South Main Street, Panguitch, Utah,
concerning a proposal to establish a
wilderness comprising about 17,900 acres
within the Bryce Canyon National Park.
The proposed wilderness is located in
Garfield and Kane Counties, Utah.

A public hearing will be held beginning
at 10 a.m. on December 12, 1967, in the
Wayne County Courthouse, Loa, Utah,

concerning a proposal to establish wilderness comprising about 23,074 acres within the Capitol Reef National Monument, Utah. The lands proposed as wilderness are located in Wayne County, Utah.

A public hearing will be held beginning at 9 a.m. on December 14, 1967, in the Council Chambers, City-County Building, 121 East Center Street, Moab, Utah, concerning a proposal to establish wilderness comprising about 12,742 acres within the Arches National Monument, Utah. The lands proposed as wilderness are located in Grand County, Utah.

Packets containing maps depicting the preliminary boundaries of the areas proposed as wilderness and providing additional information about any or all of the above proposals may be obtained from the Regional Director, National Park Service, Old Santa Fe Trail, Post Office Box 723, Santa Fe, N. Mex. 87501. These packets may also be obtained for any one of these proposals by writing to the Superintendent of the area for which the information is desired. The address of each Superintendent is as follows: Cedar Breaks National Monument, Springdale, Utah 84767; Bryce Canyon National Park, Bryce Canyon, Utah 84797; Capitol Reef National Monument, Torrey, Utah 84775; or Arches National Monument, Moab, Utah 84532.

Descriptions of the preliminary boundaries and larger maps of the lands proposed for establishment as wilderness are available for review in the Regional Office in Santa Fe, N. Mex., and in Room 1013 of the Department of the Interior Building at 18th and C Streets NW., Washington, D.C. The Master Plans for these four areas of the National Park system also may be inspected at these offices. Additionally, the Master Plan for any one of these areas and a description of the proposed wilderness boundary may be inspected at the office of the Superintendent of that area.

Interested individuals, representatives of organizations, and public officials are invited to express their views on the proposals in person provided they notify the hearing officer no later than 2 days in advance of the date announced for the hearing, in care of the Superintendent of the area for which the hearing is to be held. Their addresses are given above. Those not wishing to appear may submit a written statement on any of the wilderness proposals to the hearing officer, in care of the Superintendent of the area affected for inclusion in the official record which will be open for 30 days following conclusion of the hearing.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An abbreviated oral statement may, however, be supplemented by a more complete written statement which should be submitted to the hearing officer at the time of presentation of the oral statement. Written statements presented in person at a hearing will be considered for inclusion in the transcribed hearing record. However, all materials so presented at a hearing shall

be subject to determinations that they are appropriate for inclusion in the transcribed record. To the extent that time is available after presentation of oral statements by those who have given the required advance notice, the hearing officer will give others present an opportunity to be heard.

After an explanation of the proposals by a representative of the National Park Service, the hearing officer, insofar as possible, will adhere to the following order in calling for the presentation of oral statements:

1. Governor of the State or his representative.
2. Members of Congress.
3. Members of the State Legislature.
4. Official representatives of the county or counties in which the proposed wilderness is located.
5. Officials of other Federal agencies or public bodies.
6. Organizations in alphabetical order.
7. Individuals in alphabetical order.
8. Others not giving advance notice, to the extent there is remaining time.

HARSHON L. BILL,
Acting Director,
National Park Service.

SEPTEMBER 26, 1967.

[F.R. Doc. 67-11848; Filed, Oct. 9, 1967; 8:45 a.m.]

PETRIFIED FOREST NATIONAL PARK, ARIZ.

Notice of Intention To Negotiate Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with J. Dolman and Helen B. Robinson authorizing them to continue to provide concession facilities and services for the public at Petrified Forest National Park, Ariz., for a period of ten (10) years from January 1, 1968, through December 31, 1977.

The foregoing concessioners have performed their obligations under the expiring contract to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, are entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice.

Interested parties should contact the Chief of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: October 3, 1967.

EDWARD A. HUMMEL,
Assistant Director,
National Park Service.

[F.R. Doc. 67-11883; Filed, Oct. 9, 1967; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary
KANSAS

Designation of County Within Great Plains Area of 10 Great Plains States Where Great Plains Conservation Program is Specifically Applicable

For the purpose of making contracts based upon an approved plan of farming operations pursuant to the Act of August 7, 1956 (70 Stat. 1115, 16 U.S.C. 590p(b)), as amended, the following county in the following State is designated as susceptible to serious wind erosion by reason of its soil types, terrain, and climatic and other factors.

KANSAS

Ellsworth.

Done at Washington, D.C., this 4th day of October 1967.

JOHN A. BAKER,
Assistant Secretary.

[F.R. Doc. 67-11802; Filed, Oct. 9, 1967; 8:47 a.m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[Antidumping—ATS 643.2-B]

ELECTRONIC RECEIVING TUBES (EXCEPT TELEVISION PICTURE TUBES) FROM JAPAN

Antidumping Proceeding Notice

OCTOBER 4, 1967.

On July 21, 1967, information was received in proper form pursuant to the provisions of § 14.6(b) of the Customs Regulations indicating a possibility that electronic receiving tubes (except television picture tubes) from Japan are being, or likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

The information was submitted by Lincoln and Stewart, Washington, D.C., on behalf of the Imports Committee, Tube Division, Electronics Industries Association.

Ordinarily, merchandise is considered to be sold at less than fair value when the net, f.o.b. factory price for exportation to the United States is less than the net, f.o.b. factory price to purchasers in the home market, or, where appropriate, to purchasers in other countries, after due allowance is made for differences in quantity and circumstances of sale.

Having conducted a summary investigation, and having determined on this basis that there are grounds for so doing, the Bureau of Customs is instituting an inquiry pursuant to the appropriate provisions of the Customs Regulations to determine the validity of the information.

A summary of information received from all sources is as follows: The information before the Bureau indicates the possibility that the prices for export to

the United States for electronic receiving tubes (except television picture tubes) from Japan are substantially lower than the prices for the same types sold for home consumption.

This notice is published pursuant to § 14.6(d) (1) (i) of the Customs Regulations (19 CFR 14.6(d) (1) (i)).

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

[F.R. Doc. 67-11917; Filed, Oct. 9, 1967;
8:48 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services
Administration

KING'S COLLEGE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No.: 67-00064-33-46040. Applicant: King's College, Department of Biology, Wilkes-Barre, Pa. 18702. Article: Electron Microscope Model JEM-30B with Vacuum Evaporator JEE-SS. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article is intended for use by undergraduate students in a course in the elements of microtechnique, and for demonstration in a number of elementary biological laboratories which will require that the instrument be for demonstrations in a number of elementary biological laboratories which will require that the instrument be moved from room to room. It is also intended as an instrument that will be employed by undergraduates in conjunction with research projects suitable to their stage of development. Comments: No comments have been received with respect to this application. Decision: Application is approved only for the Model JEM-30B electron microscope. No instrument or apparatus of equivalent scientific value to this foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Application with respect to the Model JEE-SS vacuum evaporator is denied without prejudice to its resubmission, pursuant to section 602.5(e) of regulations cited above, for reasons indicated below. Reasons for approving duty-free entry of model JEM-30B electron microscope: This foreign article is intended to be used in connection with teaching a course in the elements of electron micro-

copy and for demonstrations of the principles of electron microscopy in a number of elementary biological laboratories. The fulfillment of these purposes requires an instrument that is relatively simple to operate, is compact and mobile, and is air-cooled so that it may be operated without the need for a fixed source of water or other cooling medium. The only comparable electron microscope manufactured in the United States is the Model EMU-4, manufactured by the Radio Corporation of America (RCA). This is a complex instrument which requires a fixed installation and shielding, and which can be properly operated only by those who have acquired considerable skill in electron microscopy. For these reasons, we find that the RCA Model EMU-4 is not of equivalent scientific value to the Model JEM-30B, for the purposes for which this article is intended to be used. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the Model JEM-30B, for the purposes for which this foreign article is intended to be used, which is being manufactured in the United States.

Reasons for denying duty-free entry of Model JEE-SS vacuum evaporator without prejudice to resubmission: Vacuum evaporators are used in preparing specimens to be examined with electron microscopes, and operate independently of the instruments for which the specimens are prepared. Therefore, a domestic vacuum evaporator having the same pertinent characteristics and pertinent specifications of the Model JEE-SS, could possibly be determined as being of equivalent scientific value to this foreign article for the purposes for which such article is intended to be used. We are advised by the Department of Health, Education, and Welfare (HEW) (memorandum dated August 2, 1967) that vacuum evaporators equivalent to the Model JEE-SS are available from domestic manufacturers. We note that the application did not include information on the issue of whether any domestic apparatus was of equivalent scientific value to the JEE-SS, for the purposes for which it is intended to be used. The application for duty-free entry of the Model JEE-SS vacuum evaporator is therefore denied without prejudice to resubmission for this foreign article, to afford the applicant an opportunity to correct this deficiency in the application.

CHARLEY M. DENTON,
Director, Office of Scientific and
Technical Equipment, Business
and Defense Services
Administration.

[F.R. Doc. 67-11887; Filed, Oct. 9, 1967;
8:45 a.m.]

NATIONAL INSTITUTES OF HEALTH

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific and Cultural

Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00049-33-11000. Applicant: National Institutes of Health, 9000 Wisconsin Avenue, Bethesda, Md. 20014. Article: LKB 9000 Combined Gas Chromatograph-Mass Spectrometer comprised of: LKB 9001 Analyzer Unit and LKB 9002 Control Unit with LKB 9042 Direct Inlet System, LKB 9043 Vapor Leak Inlet System. Manufacturer: LKB-Produlster AB, Sweden. Intended use of article: Analysis of uncontaminated substances and structural determination in a wide variety of chemical and biomedical research problems will be conducted. Determination of phytanic acid degradation will be extended through identification of low concentrations of phytanic acid in animal and tissue cultures of patients. Continued studies of biologically active alkaloids and lipids are to be made. Through the use of stable isotopes, "tracer" studies will be conducted on patients not otherwise permitted to use radioactive isotopes. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: Section 602.1(e) of the regulations issued pursuant to the Educational, Scientific and Cultural Materials Importation Act of 1966 (80 Stat. 897) provides:

The determination of scientific equivalency between a foreign instrument and a domestic instrument shall be based on comparisons of the pertinent characteristics and pertinent specifications of the foreign instrument with the similar pertinent characteristics and pertinent specifications of the domestic instrument. If such comparisons show that at least one domestic instrument or a reasonable combination of domestic instruments does possess all of the pertinent characteristics and pertinent specifications of the foreign instrument, the Administrator shall find that scientific equivalency does exist.

The phrase, "reasonable combination of domestic instruments," was intended to be construed in a reasonably narrow manner to include only combinations which would under normal commercial practice and usage generally be considered as a unit. The phrase is narrowly construed because the operative language of the statute and the explanatory language of the Committee Reports both speak in terms of comparisons of single instruments with other single instruments. Thus, item 851.60 of schedule 8, part 4 of the Tariff Schedules prescribes the test "if no (domestic) instrument or apparatus of equivalent scientific value * * * is being manufactured in the United States." Similarly,

the Committee Reports speak in terms of "a" domestic article and "a" domestic instrument or apparatus. (H. Rept. No. 1779, House Committee on Ways and Means, 89th Cong., 2d sess., p. 18, and H. Rept. No. 1678, 89th Cong., 2d sess., p. 12.)

The foreign article is a unit which combines the functions of a gas chromatograph, a mass spectrometer and a separating device. At the time the applicant placed the order for the foreign article, there were no domestic manufacturers offering to supply a comparable unit in which the three functions were integrated. We note that, in response to an invitation to bid from the applicant, the Bendix Corp. (Bendix) offered to furnish its Model 3012 mass spectrometer, a Model 1073 Bieman-Watson separator, and a Model 5751A gas chromatograph manufactured by the F&M Scientific Division of the Hewlett-Packard Co.; and that Varian Associates (Varian) offered to supply its Model M-166 mass spectrometer without any gas chromatograph. (See letter from applicant dated Sept. 19, 1967 which clarifies Attachment No. 4 to application.) We also note that the two other known domestic manufacturers of mass spectrometers, Consolidated Electrodynamics Corp. and Nuclide Corp., replied "no bid" to the applicant's invitation to bid on an instrument comparable to the foreign article. The resolution of the Bendix Model 3012 mass spectrometer is specified to be from 400 to 700, whereas the specified resolution of the mass spectrometer unit of the foreign article is from 1,000 to 2,000. The Bieman-Watson separator offered by Bendix has a maximum capacity of 20 milliliters per second, whereas the Becker-Ryhage separator included in the foreign article has a maximum capacity of 60 milliliters per second. (See Subparts 2A and 2B to the reply of the applicant to Question 13c.) Bendix has not demonstrated that when the Model 3012 mass spectrometer and the Bieman-Watson separator have been combined with the gas chromatograph of another manufacturer, the resolution and flow rate of the combination will equal to resolution and flow rate specified for the foreign article. We therefore find that the several instruments offered by Bendix are not a "reasonable combination" in accordance with the applicable provisions of the regulations set forth above.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and
Technical Equipment, Business and Defense Services
Administration.

[F.R. Doc. 67-11888; Filed, Oct. 9, 1967;
8:46 a.m.]

Maritime Administration DELTA STEAMSHIP LINES, INC.

Notice of Application

Notice is hereby given that Delta Steamship Lines, Inc., has applied for permission for its vessels operating on its subsidized service on Trade Route No. 20 (U.S. Gulf/East Coast of South America) to provide service between (1) U.S. Gulf ports and ports in Guyana, Surinam, and French Guiana; (2) between ports in Guyana, Surinam and French Guiana and South American ports on the required service on Trade Route No. 20; and (3) between ports in Guyana, Surinam and French Guiana and ports on the East Coast of Mexico.

Any person, firm or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Merchant Marine Act, 1936, as amended, 46 U.S.C. 1175 (herein called the "Act"), with respect to the proposed operation described in item (1) above, should, by the close of business on October 23, 1967, notify the Secretary, Maritime Subsidy Board in writing, in triplicate, and file petition for leave to intervene in accordance with the rules of practice and procedure of the Maritime Subsidy Board.

In the event a section 605(c) hearing is ordered to be held, the purpose thereof will be to receive evidence relative to (1) whether application is one with respect to a vessel to be operated on a service, route or line served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry in such service, route or line is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act, additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

Dated: October 5, 1967.

By order of the Maritime Subsidy Board.

JOHN M. O'CONNELL,
Assistant Secretary.

[F.R. Doc. 67-11919; Filed, Oct. 9, 1967;
8:48 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration DOW CHEMICAL CO.

Notice of Withdrawal of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec.

408(d) (1), 68 Stat. 512; 21 U.S.C. 346a (d) (1)), the following notice is issued:

In accordance with § 120.8 *Withdrawal of petitions without prejudice* of the pesticide regulations (21 CFR 120.8), the Dow Chemical Co., Post Office Box 512, Midland, Mich. 48640, has withdrawn its petition (PP 7F0593), notice of which was published in the FEDERAL REGISTER of May 13, 1967 (32 F.R. 7224), proposing the establishment of a tolerance of 0.1 part per million for negligible residues of the herbicide 2-sec-butyl-4,6-dinitrophenol, as the alkanolamine salts of the ethanol and isopropanol series (calculated as 2-sec-butyl-4,6-dinitrophenol), in or on the raw agricultural commodities soybeans and soybean straw.

Dated: September 29, 1967.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 67-11926; Filed, Oct. 9, 1967;
8:49 a.m.]

E. I. DU PONT DE NEMOURS & CO.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b) (5), 72 Stat. 1786; 21 U.S.C. 343 (b) (5)), notice is given that a petition (FAP 8B2217) has been filed by E. I. du Pont de Nemours & Co., 1007 Market Street, Wilmington, Del. 19398, proposing the issuance of a regulation to provide for the safe use of tetraethylene glycol di (2-ethylhevoate) and polyethylene glycol (400) monolaurate as a finish on twine, fabricated from nylon complying with § 121.2502 *Nylon resins*, for use in food-contact applications.

Dated: September 29, 1967.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 67-11927; Filed, Oct. 9, 1967;
8:49 a.m.]

ATOMIC ENERGY COMMISSION

STATE OF COLORADO

Proposed Agreement for Assumption of Certain AEC Regulatory Authority

Notice is hereby given that the U.S. Atomic Energy Commission is publishing for public comment, prior to action thereon, a proposed agreement received from the Governor of the State of Colorado for the assumption of certain of the Commission's regulatory authority pursuant to section 274 of the Atomic Energy Act of 1954, as amended.

A résumé, prepared by the State of Colorado and summarizing the State's proposed program, was also submitted to the Commission. With the exception of the referenced organizational chart, the Radiation Advisory Committee membership and a listing of laboratory and

monitoring equipment, this résumé is set forth below as an appendix to this notice. A copy of the program, including proposed Colorado regulations, is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., or may be obtained by writing to the Director, Division of State and Licensee Relations, U.S. Atomic Energy Commission, Washington, D.C. 20545. All interested persons desiring to submit comments and suggestions for the consideration of the Commission in connection with the proposed agreement should send them, in triplicate, to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, within 30 days after initial publication in the FEDERAL REGISTER.

Exemptions from the Commission's regulatory authority which would implement this proposed agreement, as well as other agreements which may be entered into under section 274 of the Atomic Energy Act, as amended, were published as Part 150 of the Commission's regulations in FEDERAL REGISTER issuances of February 14, 1962, 27 F.R. 1351; September 22, 1965, 30 F.R. 12069; and March 19, 1966, 31 F.R. 4668. In reviewing this proposed agreement, interested persons should also consider the aforementioned exemptions.

Dated at Germantown, Md., this 28th day of September 1967.

For the Atomic Energy Commission.

W. B. McCool,
Secretary.

PROPOSED AGREEMENT BETWEEN THE U.S. ATOMIC ENERGY COMMISSION AND THE STATE OF COLORADO FOR DISCONTINUANCE OF CERTAIN COMMISSION REGULATORY AUTHORITY AND RESPONSIBILITY WITHIN THE STATE PURSUANT TO SECTION 274 OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

Whereas, the U.S. Atomic Energy Commission (hereinafter referred to as the Commission) is authorized under section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act) to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8 and section 161 of the Act with respect to byproduct materials, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, the Governor of the State of Colorado is authorized under section 66-26-2 Colorado Revised Statutes, 1963, annotated Volume 9 (181 CSL 1965) to enter into this Agreement with the Commission; and

Whereas, the Governor of the State of Colorado certified on September 12, 1967, that the State of Colorado (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and

Whereas, the Commission found on ----- that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

Whereas, the State and the Commission recognize the desirability and importance of

cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and

Whereas, the Commission and the State recognize the desirability of reciprocal recognition of licenses and exemption from licensing of those materials subject to this Agreement; and

Whereas, this Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now, therefore, it is hereby agreed between the Commission and the Governor of the State, acting in behalf of the State, as follows:

ARTICLE I. Subject to the exceptions provided in Articles II, III, and IV, the Commission shall discontinue, as of the effective date of this Agreement the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and section 161 of the Act with respect to the following materials:

- A. Byproduct materials;
- B. Source materials; and
- C. Special nuclear materials in quantities not sufficient to form a critical mass.

ARTICLE II. This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

- A. The construction and operation of any production or utilization facility;
- B. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;
- C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

D. The disposal of such other byproduct, source or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

ARTICLE III. Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

ARTICLE IV. This Agreement shall not affect the authority of the Commission under subsection 161 b. or i. of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

ARTICLE V. The Commission will use its best efforts to cooperate with the State and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible. The State will use its best efforts to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of like materials. The State and the Commission will

use their best efforts to keep each other informed of proposed changes in their respective rules and regulations and licensing, inspection, and enforcement policies and criteria, and to obtain the comments and assistance of the other party thereon.

ARTICLE VI. The Commission and the State agree that it is desirable to provide for reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any Agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules and regulations, and procedures by which such reciprocity will be accorded.

ARTICLE VII. The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend this agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that such termination or suspension is required to protect the public health and safety.

ARTICLE VIII. This agreement shall become effective on January 1, 1968, and shall remain in effect unless, and until such time as it is terminated pursuant to Article VII.

Done at -----, in triplicate, this ----- Day of -----

FOR THE U.S. ATOMIC
ENERGY COMMISSION

FOR THE STATE OF
COLORADO

FOREWORD

This document includes a résumé of past activities and accomplishments by the Colorado State Department of Public Health in control of ionizing radiation for the protection of the public health. Proposed programs and facilities are presented for the assumption of additional responsibilities with respect to sources of ionizing radiation as well as supporting information on authority, regulation, organization, and resources.

The Governor, on behalf of the State of Colorado, is authorized to enter into an agreement with the Federal Government providing for the State to assume certain responsibilities with respect to ionizing radiation. This authority is granted in section 66-26-2 Colorado Revised Statutes, 1963, annotated Volume 9 (181 CSL 1965).

The AEC is authorized to enter into an agreement with the governor of a State whereby the Commission may transfer to the State certain licensing and regulatory control of byproduct material, source material, and special nuclear material in quantities not sufficient to form a critical mass. This authority is found in section 274b of the Atomic Energy Act of 1954 as amended.

Colorado has accomplished a number of pioneering activities in managing ionizing radiation. They were the leaders in studying and controlling radiation exposures in uranium mines. The first continuous State air monitoring program was established by the Colorado State Department of Public Health. Now, leadership in the promotion of the peaceful uses of atomic energy is designed to be consistent with the protection of the public and occupational health.

HISTORY

In 1949, problems created by the expanding uranium mining and milling industry demanded a large portion of the occupational health program of the Colorado State Health Department. Support from other agencies in this program permitted the purchase of equipment and provided training to State personnel, both formal and in-service,

that otherwise was unavailable. It was at this time that radiation activities were started in Colorado.

The activities of the occupational health program continued to expand, and in 1963, the Occupational and Radiological Health Division was formed consisting of three sections: (1) Radiological Health, (2) Occupational Health, and (3) Air Pollution. In January of 1967, the name of the division was changed to the Air, Occupational, and Radiation Hygiene Division, with the Radiological Health Section being renamed the Radiation Hygiene Section. The following activities relate the more significant developments in the history of the Radiation Hygiene Section.

Uranium mining and milling. In 1949, full scale studies of health hazards in uranium mines were undertaken by the State Health Department in cooperation with the U.S. Public Health Service. These studies developed into a program consisting of analysis for Radon and Radon daughters, ^{226}Ra , ^{210}Po , and other naturally occurring nuclides. The results of these studies were applied to establish adequate ventilation facilities to limit radon daughter concentrations in mine atmospheres to accepted standards. In 1960 the Department trained Colorado Bureau of Mines technicians to do this work; however, current activities are still maintained in training, calibration of equipment, evaluation of the Bureau of Mines program, consultation to industry, and research.

X-Ray survey program. A limited program for surveying X-ray machines was started in 1957. Rules and regulations requiring registration of sources of ionizing radiation were promulgated by the Colorado State Board of Health in 1959.

Following this requirement of registration, the Department initiated a dental radiological health program by mailing the specially prepared Surpak film kit to all dentists in the Denver Metropolitan area. This survey was conducted with the cooperation of the Colorado Dental Association and the U.S. Public Health Service (U.S.P.H.S.). A total of 643 dental X-ray units were evaluated in this manner, and corrections in filtration and collimation were made by the individual dentist as needed.

Comprehensive physical surveys of dental and all other diagnostic X-ray installations began in 1962 using procedures approved by the U.S.P.H.S. Also during this period, State radiological health specialists assisted in training selected local health department personnel in the survey procedures. As a result of this training, the organized local health departments gave invaluable assistance in completing the program in their respective areas.

The continuing program encompasses physical surveys of X-ray units in the healing arts and in industry with written reports on each survey submitted to the individual in charge of the installation. NCRP standards and recommendations as published in NBS Handbooks 76 and 93 are used in all procedures.

Approximately 1,500 medical X-ray units and 1,230 dental X-ray machines have been surveyed out of a total of 2,800 registered units in the State. Results indicate that 95 percent of the dental units and 70 percent of the medical machines and facilities are in physical compliance at this time. This degree of compliance has been accomplished without the aid of rules and regulations specifying physical requirements. The program is now 97 percent completed with only a few X-ray installations in outlying areas that have not had an initial survey. Many of the installations have had more than one physical survey.

Radium control program. As previously mentioned, rules and regulations which were promulgated in 1959 required sources of

ionizing radiation including radium sources to be registered with the Department. There are 33 registered installations in Colorado that use radium sealed sources, and all have had complete storage area surveys and tests made for leakage contamination. All of these installations are in compliance with standards recommended in NBS Handbook 73. The Department provides assistance to radium users in the proper disposal of unwanted or leaking sources.

Environmental surveillance. An air surveillance program was established as early as 1954 and was conducted by the Colorado State Health Department until joining the Public Health Service surveillance network in 1957. Currently, participation is maintained in two national surveillance networks and one standby project. The mechanism for expanding surveillance as the need arises has been established as part of the emergency monitoring program. A State milk monitoring program is being conducted and a summary of these activities is published periodically in "Radiological Health Data." Additional surveillance is conducted on food, water, and other materials. Another phase of this project is human evaluation by *in vivo* counting of human thyroids for ^{131}I and whole body counting for ^{137}Cs on a selected population group.

Activities in this program are expanding rapidly. Collection of background data and continuing environmental surveillance are currently being planned and organized to measure the environmental effects of nuclear power facilities to be constructed in Colorado. Specific surveillance has been done and is planned in the future to determine levels of radioactivity in the ambient air in selected communities in Colorado. Projects such as "Gasbuggy" and the proposed use of nuclear energy for oil shale recovery in northwest Colorado indicate a busy future for this program.

Whole body counting facility. In 1961, the Whole Body Counting Facility was completed and put into operation. Activities of the Whole Body Counter have been described briefly above, particularly regarding surveillance. Additional activities involve adapting whole body counting techniques to evaluation of internal depositions resulting from the use of radioactive materials. The adaptability of the instrumentation of the Whole Body Counter to other aspects of radiological health programs has improved the capabilities of the Division in rapid evaluation and accuracy of measurement.

Uranium mill tailings. Pursuant to enabling legislation, the Board of Health promulgated regulations concerning the stabilization of uranium mill tailing piles. In implementing the purpose of these regulations all inactive uranium mill tailing piles have been surveyed by the companies and plans submitted for stabilization along with a schedule for completion. In January 1967, one pile was completely stabilized and control of one additional pile has been started. Colorado assumed leadership in adoption of these regulations to prevent potential long-range contamination of the environment.

Training. Because of a close association with local health departments, training courses have been provided to technical personnel in local areas to better coordinate radiological health activities on a local level. This is a continuing program and it has succeeded in increasing the capabilities of additional people in radiological health. Staff members are active in various professional societies concerned with radiation and have established an educational program in radiological health through the news media and lectures to various interested groups.

Radioactive materials. All radioactive material, except naturally occurring and accelerator-produced radionuclides, is under

the jurisdiction of the U.S. Atomic Energy Commission. Staff members began to accompany AEC inspectors on inspections of AEC licensees in 1957. In recent years, members of the Radiation Hygiene Section have participated in a cross-section of byproduct licensee inspections.

Research. Research became a part of the program very early, primarily on the uranium mining and milling problems. More recently, research projects involved other studies such as " ^{131}I , Metabolism", radium surveillance and radon progeny inhalation studies in cooperation with Colorado State University. Several reports on these studies were published in various journals.

Emergency procedures. The Health Department has maintained a program for handling radiological emergencies and accidents in cooperation with law enforcement and other local and State official agencies throughout the State since 1959. This program is currently being reorganized to increase capabilities in this area as well as provide capabilities at the local level in the case of an emergency.

The Radiation Hygiene Section, which is responsible for the program, will coordinate the program so that when and if an emergency does occur a systematic procedure can be followed, including rapid communications to the correct people and preparedness of a specific medical facility with emergency transportation, if needed. Emergency communications and transportation will be provided by the Colorado State Patrol and through local authorities. The Section is equipped with adequate instrumentation for evaluation of an incident. In addition, assistance is available through the Region VI Radiological Team of the U.S. Atomic Energy Commission.

ORGANIZATION AND RESPONSIBILITY

The State government and health department organization for the purpose of regulation of sources of ionizing radiation is illustrated in Chart 1 in the appendix.

The Radiation Advisory Committee is appointed by the governor and consists of nine members representing industry, the healing arts, and educational institutions. This committee provides evaluation, review and guidance to the Department on all aspects of the radiological health program. Its present membership is shown in the appendix.

The Colorado State Department of Public Health will regulate the use of all sources of ionizing radiation except those which it may exempt or which are under the jurisdiction of the Federal Government. This function rests in the Radiation Hygiene Section.

The Colorado Division of Commerce and Development and the State Department of Natural Resources are active in the promotion and development of nuclear energy. The health department works with these two agencies so that regulation and control will in no way interfere with development unless there is a question regarding the safety aspects of a particular operation.

The Department works very closely with the Industrial Commission, particularly regarding occupational disease disability claims arising from exposure to ionizing radiation. Also, a cooperative program with the Colorado Bureau of Mines has been developed for the control of radiation exposure in the mining industry. The accomplishments of this joint program have been noteworthy and provided leadership among all Western States.

DEPARTMENT AND STAFF ORGANIZATION

The Radiation Hygiene Section is one of three sections in the Air, Occupational, and Radiation Hygiene Division—the others being Air Hygiene and Occupational Health. The Air, Occupational, and Radiation Hygiene

Division is one of 11 in the State Health Department. Close liaison with other divisions within the State Health Department is maintained where associated programs involve radiological health aspects. Among these are the Engineering and Sanitation Division, the Water Pollution Control Division, the Hospital and Nursing Home Division, the Tuberculosis Section of the Preventive Medical Services Division, and the Dental Health Section of the Special Health Services Division.

Legal services are provided by the State attorney general's office and a staff attorney in the health department. Biostatistics, data processing, and vital statistics are provided by the Records and Statistics Section of the Administrative Services Division of the State Health Department.

The program of the Radiation Hygiene Section includes the regulation of sources of ionizing radiation, whole body counting, environmental monitoring, consultative services, and applied research.

In addition to the Section Chief, the Radiation Hygiene Section is comprised of four professional employees. One of these, the public health physicist, will have primary responsibility for the Whole Body Counting facility. In order to maintain maximum flexibility, primary responsibilities for the remainder of the program (e.g., licensing and registration, inspection and compliance, environmental monitoring, consultative services, and applied research) may be rotated among the other three members of the staff. Supervision and administration of the radiological health program are provided by the division director and section chief. Current staff qualifications are shown in the attachment. Future replacements and additions to the staff will be similarly qualified.

Although local health departments will not participate directly in the agreement materials program, trained personnel from these units will continue to assist by conducting over 60 percent of the X-ray surveys in the State.

In unusual situations, industrial hygienists on the occupational health staff are trained and available to assist the Radiation Hygiene Section in radiological health activities.

REGULATORY PROCEDURES AND POLICY

Licensing and registration. The Colorado radiation control program extends to all sources of radiation. The regulations require licensing of all radioactive materials and registration of all radiation-producing machines except such sources as may be specifically exempted from these requirements in accordance with the regulations.

Licensing procedures and criteria will be consistent with those of the Atomic Energy Commission as provided in Part III of the State of Colorado Rules and Regulations Pertaining to Radiation Control.

General licenses are effective by regulation without the filing of applications with the Department or the issuance of licensing documents. General licenses are issued for specified materials under specified conditions when it is determined that the issuance of specific licenses is not necessary to protect the public and occupational health and safety. Specific licenses or amendments thereto are issued upon review and approval of an application. A specific licensing document will be issued to named persons and will incorporate appropriate conditions and expiration date. Prelicensing inspections will be conducted when appropriate.

The Department, when it determines such to be appropriate, will request the advice of the Radiation Advisory Committee, or appropriate members thereof, with respect to any matter pertaining to a license application, or to criteria for reviewing applications.

All applications for nonroutine medical uses of radioactive materials will be referred for advice and consultation to those members of the Radiation Advisory Committee who have appropriate training and experience in nonroutine human uses of radioactive materials. Appropriate research protocols will be required as part of an application. The Department will maintain knowledge of current developments, techniques and procedures for medical uses applicable to the licensing program through continuing contact and information exchange with the U.S. Atomic Energy Commission and other Agreement States.

The registration program will be a continuation of the current activity except that (a) all radiation machines will be subject to the applicable provisions of Part IV of the regulations and (b) radium and accelerator-produced radionuclides which were formerly registered must now be licensed.

Inspection. Inspections for the purpose of evaluating radiation safety and determining compliance with appropriate regulations and provisions of licenses will be conducted as needed.

Inspection frequency will be based upon the extent of the hazard-potential and experience with the particular facility. It is expected that all specific licensees will be inspected at least once each 2-year period. The following frequency is anticipated:

Use of classification	Usual inspection frequency
Industrial radiography:	
Fixed installations.	Once each 12 months.
Mobile operations.	Once each 6 months.
All commercial waste operations.	Once each 6 months.
Broad licenses—industrial, medical, or academic.	Once each 6-12 months.
Other specific licenses—industrial, medical, or academic.	Once each 12-24 months.

Inspections will be made by prearrangement with the licensee or may be unannounced at reasonable times, as the Department, in its judgment, determines to be most constructive. Consultation visits will be made frequently in the early years of the licensing and compliance program in order to establish understanding and cooperation.

Inspections will include the observation of pertinent facilities, operators, and equipment; a review of use procedures, radiation safety practices, and user qualifications; a review of records of radiation surveys, personnel exposure, and receipt and disposition of licensed materials—all as appropriate to the scope and conditions of the license and applicable regulations. In addition, independent measurements will be made as appropriate.

At the start and conclusion of an inspection, personal contact will be made at management level whenever possible. Following the inspections, results will be discussed with the licensee management.

Investigations will be made of all reported or alleged incidents to determine the conditions and exposures incident thereto and to determine the steps taken for correction, cleanup, and the prevention of similar incidents in the future.

Radiological assistance in the form of monitoring, liaison with appropriate authorities and recommendations for area security and cleanup will be available from the Department.

Reports will be prepared covering each inspection or investigation. The reports will

be reviewed by the Radiation Hygiene Section Chief.

Compliance and enforcement. The status of compliance with regulations, registration, or license conditions will be determined through inspections and evaluations of inspection reports.

When there are items of noncompliance, the licensee will be so informed at the time of inspection. When the items are minor and the licensee agrees at the time of inspection to correct them, written notice at the completion of the inspection will list the items of noncompliance, confirm corrections made at the time, and inform the person that a review of other corrective action will be made at the next inspection.

Where items of noncompliance of a more serious nature occur, the licensee will be informed by letter of the items of noncompliance and required to reply within a stated time as to the corrective action taken and the date completed. Assurance of corrective action will be determined by a followup inspection or at the time of the next regular inspection.

Upon request by the licensee, the terms and conditions of a license may be amended, consistent with the Act or regulations, to meet changing conditions in operations or to remedy technicalities of noncompliance of a minor nature. The Department may amend, suspend, or revoke a license in the event of continuing refusal of the licensee to comply with terms and conditions of the license, the Act, or regulations or failure to take adequate action concerning items of noncompliance. Prior to such action, the Department shall notify the licensee of its intent to amend, suspend or revoke the license and provide the opportunity for a hearing.

The Department will use its best efforts to attain compliance through cooperation and education. Only in instances where real or potential hazards exist, or cases of repeated noncompliance or willful violation will the full legal procedures normally be employed.

Where the Department finds that the licensee has been guilty of deliberate and willful violation, or that the public health, safety, or welfare imperatively requires emergency action, and incorporates such findings in its order, it may institute revocation proceedings without giving notice and summarily suspend the license pending proceedings for revocation which shall be promptly instituted and determined upon request of any interested person.

In the event of an emergency relating to any source of ionizing radiation which endangers the public peace, health or safety, the Department shall have the authority to issue such orders for the protection of the public health and safety as may be appropriate, including orders to lay an embargo upon or impound radioactive materials and other sources of ionizing radiation in the possession of any person who is not equipped to observe the provisions of the Act or any rules or regulations promulgated thereunder.

Effective date of license transfer. Any person who, on the effective date of the agreement with the Atomic Energy Commission, possesses a license issued by the Federal Government shall be deemed to possess a like license issued under Chapter 181, Colorado Session Laws 1965 which shall expire either 90 days after the receipt from the Department of a notice of expiration of such license, or on the date of expiration specified in the Federal license, whichever is earlier.

Administrative procedures and judicial review. The basic standards of procedure for administrative agencies in the State of Colorado are set by the rules of procedure required by Colorado law with respect to hearings, issuance of orders, and judicial review of findings, and order of the Colorado State

Board of Health (Chapter 3, Article 16, CRS 1963). These rules provide for:

1. Due notice to interested persons and opportunity to present data or views either orally or in writing prior to the adoption, amendment, or repeal of any rule.

2. Adoption or amendment of rules in emergency situations without observance of the normal requirements of notice and hearing, upon a finding by the Department that immediate action is necessary for the preservation of the public health, safety, or general welfare.

3. Petition to the Department requesting the promulgation, amendment, or repeal of any rule.

4. Declaratory judgment procedure available on petition by proper party to determine validity of statute, rule or final decision of Department. (Chapter 77, Article II, CRS 1963.)

5. Right to hearing after reasonable notice in a case in which legal rights, duties or privileges of specific parties are required by law or constitutional right to be determined.

6. Judicial review in the district court by any person aggrieved by a final decision of the Department, and appeal to the State supreme court for review of a final judgment of the district court.

Compatibility and reciprocity. In promulgating rules and regulations, the Department has, insofar as practicable, avoided requiring dual licensing and has provided for reciprocal recognition of other State and Federal licenses.

Routine staff meetings will be conducted involving all members of the division who are involved with the radiological health program to determine and maintain compatible programs with the U.S. Atomic Energy Commission and other Agreement States. Periodic internal evaluation exercises will be conducted concerning all phases of the program. Written reports, inspection reports, records and statistics will be compatible with the current Atomic Energy Commission program.

R. J. REECE

DIRECTOR, DIVISION OF AIR, OCCUPATIONAL AND RADIATION HYGIENE

Education and Training:

M.D. University of Kansas, 1949.
Internship, University of Kansas, 1950.
M.P.H., Harvard, 1954.

Medical Management of Radiation Accidents, USPHS.

Radiological Health for Physicians, USPHS.
Orientation course in Practices and Procedures of Licensing and Regulation, AEC.

Basic Civil Defense, FCDA.
Numerous meetings and short courses in radiological health.

Experience and Related Activities:

Preventive Medicine Officer, U.S. Army, 1951-52.

Local Health Officer, Kansas, 1950-51, 1952-53, 1954-55.

Director of Local Health Services Division, Colorado State Department of Public Health (including Industrial Hygiene Section and radiological health program), 1955-62.

Director of Occupational and Radiological Health Division, Colorado State Department of Public Health, 1962-67.

Director, Colorado Civil Defense Health Section, 1955-61.

Member, USPHS Medical Liaison Officer Network in Radiological Health.

Member, American Medical Association, American Industrial Medical Association, American Public Health Association.

Lecturer in Radiological Health, Colorado State University.

Investigator in several AEC and USPHS radiation research projects.

P. W. JACOB

CHIEF OF THE RADIATION HYGIENE SECTION OF COLORADO STATE DEPARTMENT OF PUBLIC HEALTH
Education and Training:

B.S. Chemistry and Physics, University of Colorado, 1936.

Civil Defense Monitoring, FDA.

Basic Radiological Health, USPHS.

Medical X-Ray Protection, USPHS.

Radiation Surveillance, Nevada Test Site.

Radiation Monitoring, USPHS, Salt Lake City.

AEC orientation course in Practices and Procedures of Licensing and Regulation, Bethesda.

Management, Development, and Decision Making, University of Denver.

Program Planning, University of Oklahoma.

Numerous short courses in radiological health and industrial hygiene.

Experience and Related Activity:

Colorado Department of Public Health: Industrial Hygienist, 1947-54.

Chief, Industrial Hygiene Section (including Radiological Health) 1954-63.

Chief, Radiological Health Section, 1963-present.

Responsibility for administration of the radiation control program.

Chief of Radiological Defense, Colorado Civil Defense Agency.

Past member N7-1 Committee of American Standards Association on Uranium and Thorium Mining and Milling.

Past Member Committee on Ionizing Radiation, American Conference of Governmental Industrial Hygienists.

President, Rocky Mountain Section of American Industrial Hygiene Association.

Lecturer, University of Denver and Colorado State University.

Co-investigator on various research projects.

Several publications.

ROBERT D. SIEK

SENIOR RADIOLOGICAL HEALTH SPECIALIST

Education and Training:

B.S. in Sanitary Sciences, University of Denver, 1957.

M.P.H. in Industrial Hygiene, University of Michigan, 1961.

U.S.P.H.S. Training Courses:

Medical X-Ray Protection, CSDPH, 1964.

Basic Radiological Health, CSDPH, 1963.

Management of Radiation Emergencies and Accidents, USPHS, Montgomery, Ala.

U.S.A.E.C. Training Courses:

Fundamentals of Radiological Health and Safety (9-month extension course), University of Denver, 1963-64.

Orientation in Practices and Procedures of Licensing and Regulation, Bethesda, Md., 1966.

Experience and Related Activity:

Pueblo City-County Health Department, 1957-60.

Responsibility of industrial hygiene and radiation protection program at the local level. Program was conducted under the supervision of a State Health Department industrial hygienist.

Colorado State Department of Public Health, 1961-present.

Responsibility for promotion, training of personnel, and direct service of industrial hygiene and radiological health programs on a district basis throughout the State. Assists section chief on program planning and evaluation and represents him as requested in technical and administrative functions.

ALBERT J. HAZLE

RADIOLOGICAL HEALTH SPECIALIST

Education and Training:

B.S. in Agriculture, Colorado State University, 1956.

Graduate work in Physiology, Colorado State University, 1960.

U.S.P.H.S. Training Courses:

Basic Radiological Health, CSU, 1962.

Medical X-Ray Protection, CSDPH, 1964.

Occupational Radiation Protection, Taft, 1963.

U.S.A.E.C. Training Courses:

Fundamentals of Radiological Health and Safety (9-month extension course), University of Denver, 1963-64.

Orientation in Practices and Procedures of Licensing and Regulation, Bethesda, 1965.

Applied Health Physics Course, ORINS, 1967.

Civil Defense Course:

Radiological Monitoring Training Course, Denver, 1963.

Civil Defense for Food and Drug officials, FDA, Denver, 1964.

Experience and Related Activity:

Jefferson County Health Department, 1961-65.

Performance and supervision of radiation protection programs in the healing arts and industry. Participant with AEC in inspection of licensed users of radioactive materials in the county. Represent department director as directed in cooperative program planning and in liaison function.

Colorado State Department of Public Health, 1965-present.

Performance of radiation protection programs in the healing arts and industry radiation source registration program, surveillance and emergency service programs. Assists section chief in program planning and development of rules and regulations. Participates in joint research projects with Colorado State University on uranium miners and radon exposure. Participates in AEC inspections of licensed users of radioactive materials. Previous operator of the Whole Body Counting Facility.

JOHN E. EMMERSON

RADIOLOGICAL HEALTH SPECIALIST

Education and Training:

D.V.M., Colorado State University, 1950.

Graduate work, one full academic year's training in Radiological Health and Radiation Biology, PHS fellowship, Colorado State University, 1964-65.

U.S.A.E.C. Training Courses:

Orientation in Practices and Procedures of Licensing and Regulation, Bethesda, 1966.

Applied Health Physics Course, ORINS, 1967.

Experience and Related Activity:

County Health Officer, Bent County, Colorado, 1959-69.

Colorado State Department of Public Health, 1965-present.

In charge of X-ray and radium registration and curvey program. Participates in AEC inspections of licensed users of radioactive materials.

Other:

Fifteen years practice experience in veterinary medicine.

U.S. Army Veterinary Corps Reserve, 1950-55.

ARVIN LOVAAS

PUBLIC HEALTH PHYSICIST

Education and Training:

B.S., Chemistry Major, Wisconsin State College at River Falls, 1953.

M.S. in Radiation Biology (Radiological Physics Fellowship Program), University of Rochester, 1956.

Experience and Related Activity:

University of Rochester, AEC Project, Technical Assistant in Radiation Biology, 1956-66.

Work mainly involved analysis of environmental and biological samples for radioactive materials, primarily radium, thorium, and/or their products. Assisted in student labs.

Colorado State Department of Public Health, 1966-present.

Operator of Whole Body Counting Facility.

RAY A. BRENNAN (PART TIME)

CHIEF, OCCUPATIONAL HEALTH SECTION

Education and Training:

A.B. Chemistry, University of Denver, 1950. Chemistry and Math, University of Colorado, 1948.

U.S.P.H.S. Training Courses:

Two-week course in Occupational Health and Radiological Health.

Comprehensive course on Atmospheric Particulate Survey Techniques, Colorado State University, 1962.

U.S.A.E.C. Training Course:

Radiological Health and Safety, University of Denver (10-week equivalent), 1963-64.

Civil Defense Courses:

Radiological Monitoring Training Course, Denver, 1963.

Civil Defense for Food and Drug Officials, FDA, Denver, 1964.

Experience and Related Activity:

Colorado Department of Public Health:

Occupational Health Chemist and Industrial Hygienist, 1962-60.

Senior Industrial Hygienist, 1960-66.

Principal Industrial Hygienist, 1966-present.

Six weeks active duty with U.S.P.H.S. involved in off-site radiological monitoring at A.E.C. Nuclear Testing Grounds, Mercury, Nev., 1957.

Member, Colorado Public Health Association.

Member, American Conference of Governmental Industrial Hygienists.

Member, Rocky Mountain Section, American Industrial Hygiene Association.

ARVIN G. APOL (PART TIME)

SENIOR INDUSTRIAL HYGIENIST

Education and Training:

A.B. General Chemistry and Biology Major, Calvin College, Grand Rapids, Mich., 1953-57.

M.P.H. (Industrial Health), University of Michigan, 1964.

M.S. in Industrial Health (sponsored by U.S.P.H.S. Traineeship), University of Michigan, 1965.

Experience and Related Activity:

Colorado School of Mines Research Foundation, Golden, Colo., Chemist, 1957-58.

Colorado State Department of Public Health, 1960-present.

[F.R. Doc. 67-11918; Filed, Oct. 9, 1967; 8:48 a.m.]

CIVIL SERVICE COMMISSION**NURSES, STATE OF NEVADA****Notice of Adjustment of Minimum Rates and Rate Ranges**

Under authority of 5 U.S.C. 5303 and Executive Order 11074, the Civil Service Commission has increased the minimum rates and rate ranges as follows:

GS-610 NURSE SERIES

Geographic coverage: State of Nevada. Effective date: First day of the first pay period beginning on or after October 8, 1967.

PER ANNUM RATES

Grade.....	1	2	3	4	5	6	7	8	9	10
GS-4.....	\$5,736	\$5,896	\$6,056	\$6,216	\$6,376	\$6,536	\$6,696	\$6,856	\$7,016	\$7,176
GS-5.....	6,387	6,563	6,739	6,915	7,091	7,267	7,443	7,619	7,795	7,971
GS-6.....	7,055	7,253	7,451	7,649	7,847	8,045	8,243	8,441	8,639	8,837
GS-7.....	7,516	7,729	7,942	8,155	8,368	8,581	8,794	9,007	9,220	9,433

1 Corresponding statutory rates: GS-4—Seventh; GS-5—Seventh; GS-6—Seventh; GS-7—Sixth.

NOTE: This authorization does not cover nurse positions in the Division of Indian Health, Public Health Service.

All new employees in the specified occupational levels will be hired at the new minimum rate.

As of the effective date, all agencies will process a pay adjustment to increase the pay of employees on the rolls in the affected occupational levels. An employee who immediately prior to the effective date was receiving basic compensation at one of the rates of the statutory rate range shall receive basic compensation at the corresponding numbered rate authorized by this notice on and after such date. The pay adjustment will not be considered an equivalent increase within the meaning of 5 U.S.C. 5335.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[F.R. Doc. 67-11915; Filed, Oct. 9, 1967; 8:48 a.m.]

REGISTER. A copy of any such statement should also be forwarded to the party filing the proposed contract form and of the petition (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of application to institute a dual rate system filed by:

Mr. J. C. Pendleton, Secretary, South and East Africa Rate Agreement, 25 Broadway, New York, N.Y. 10004.

Notice is hereby given that the member lines of the South and East Africa Rate Agreement (No. 8054) have filed with the Commission, pursuant to section 14(b) of the Shipping Act, 1916, an exclusive patronage dual rate contract and an application for permission to institute a dual rate system for the carriage of tea from South and East African ports to U.S. Atlantic and Gulf ports.

The application provides that contract rates shall be lower than the ordinary rates by a fixed percentage of 15 percent, all in accordance with the terms and conditions described in the contract.

Dated: October 4, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-11907; Filed, Oct. 9, 1967; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Project No. 2653]

GREEN MOUNTAIN POWER CORP.**Notice of Application for License for Constructed Project**

OCTOBER 3, 1967.

Public notice is hereby given that application for license has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Green Mountain Power Corp. (G. M. McKibben, President, Green Mountain Power Corp., 1 Main Street, Burlington, Vt. 05401) for constructed Project No. 2653, known as the Gorge Project, located on Winooski River, in Chittenden County, Vt., between the towns of Colchester and South Burlington.

The existing Gorge Project includes two dams separated by a small island and consists of: (1) A northern dam of stone masonry about 95 feet long and 48 feet high; (2) a southern dam, concrete overflow type, 298 feet long including a 283-foot spillway section with 5-foot flash boards to elevation 190.35 feet (U.S.G.S. datum) which is normal full pond elevation; (3) a 195-foot long, 25-foot wide intake channel in rock, partially lined with concrete; (4) a head gate structure; (5) a 50-foot long reinforced concrete penstock; (6) an indoor type powerhouse of reinforced concrete containing a waterwheel connected to a 3,000-kw generator; (7) two station service transformer banks; and (8) appurtenant facilities.

FEDERAL MARITIME COMMISSION**SOUTH AND EAST AFRICA RATE AGREEMENT****Notice of Petition Filed for Approval**

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the proposed contract form and of the petition at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the proposed contract form and the petition including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is November 22, 1967. The application is on file with the Commission for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-11890; Filed, Oct. 9, 1967;
8:46 a.m.]

[Docket No. CP68-99]

KENTUCKY GAS TRANSMISSION CORP.

Notice of Application

OCTOBER 2, 1967.

Take notice that on September 25, 1967, Kentucky Gas Transmission Corp. (Applicant), Post Office Box 1273, Charleston, W. Va. 25325, filed in Docket No. CP68-99 an application pursuant to subsections (b) and (c) of section 7 of the Natural Gas Act for permission and approval of the Commission to abandon certain natural gas facilities and for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the sale and delivery, for resale, of volumes of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks permission and approval of the Commission to abandon a measuring and regulating station located at Irvine, Estill County, Ky., and used as a point of delivery to Petroleum Exploration (Pet-X), an existing resale customer. Applicant also seeks authorization for the construction and operation of the following natural gas facilities and sales of natural gas:

Project No. 1. Acquire and operate from Pet-X approximately 41.5 miles of 8-inch natural gas transmission pipeline extending in a southeasterly direction from Irvine, Estill County, Ky., to Pet-X's Onelda Compressor Station near Onelda, Clay County, Ky.;

Project No. 2. Construct and operate the necessary measuring and regulating facilities, at the terminus of the pipeline described in Project No. 1 above, required to maintain wholesale deliveries to Pet-X and to initiate temporary wholesale deliveries to Cumberland Valley Pipe Line Co. (Valley);

Project No. 3. Construct and operate approximately 3.6 miles of 10-inch and 8.7 miles of 8-inch natural gas transmission pipeline extending in a southerly direction from Cradle Bow to Manchester, Clay County, Ky.;

Project No. 4. Construct and operate the necessary measuring and regulating facilities, at the terminus of the 8-inch line described in Project No. 3 above, near Manchester, Clay County, Ky., required to provide a permanent point of delivery for the wholesale sale of natural gas to Valley; and

The sale of up to 1,500 Mcf per day of natural gas to Valley, commencing November 1, 1967, to enable Valley to meet the demands of its customers and to enable it to

meet the future growth requirements of its service area.

Applicant states that it proposes to commence deliveries of natural gas to Valley, on a temporary basis, through the facilities described in Project No. 1 above, by delivering such volumes of natural gas to Pet-X for the account of Valley, Pet-X to redeliver such volumes of natural gas to Valley pursuant to an agreement between said parties. Applicant proposes to provide permanent service to Valley upon the completion of the facilities proposed in Project No. 3 above, said permanent service to commence no later than October 31, 1968. Applicant further states that Valley has indicated that its supply of natural gas has been depleted to the point that it has been necessary to curtail residential service and has impaired its ability to develop any additional markets.

Applicant estimates the total cost of the proposed facilities and acquisitions at approximately \$452,401, said cost to be financed by the sale of promissory notes and common stock to The Columbia System, Inc., its parent company.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before October 30, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-11891; Filed, Oct. 9, 1967;
8:46 a.m.]

[Project No. 2655]

REEVES BROTHERS, INC.

Notice of Application for License for Constructed Project

OCTOBER 3, 1967.

Public notice is hereby given that application for license has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Reeves Brothers, Inc. (correspondence to: Foley, Chappell, Young,

Hollis & Schloth, Post Office Box 196, Columbus, Ga. 31902) for constructed Project No. 2655, known as Eagle & Phenix Mills Project, located on the Chattahoochee River, in Muscogee County, Ga., and Russell County, Ala., in Columbus and Phenix City, Ga., and Ala., respectively.

The existing project consists of: (1) A rubble masonry dam about 300 feet long and about 17 feet high containing two spillways: (a) A rock masonry timber-faced overflow about 537 feet long, in the central section of the dam, with a crest elevation at 213.59 feet (m.s.l.); and (b) an overflow about 45.7 feet long, in the west bank nonoverflow section, with a crest elevation at 215.87 feet; (2) a reservoir about 0.75 mile long with a surface area of about 50 acres and pondage of 255 acre feet at elevation 213.59 feet; (3) a forebay about 107 feet wide near east bank; (4) two open-flume water conduits (a) about 48 feet wide extending about 200 feet to the lower powerhouse with reduced width to about 36 feet, and (b) about 45 feet wide and about 30 feet long at the upper powerhouse; (5) two powerhouses, the lower (a) with five generating units totaling 2,200 kw, and the upper (b) with four generating units totaling 2,060 kw giving a combined capacity of 4,260 kw; (6) two substations; and (7) appurtenant facilities.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is November 22, 1967. The application is on file with the Commission for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-11892; Filed, Oct. 9, 1967;
8:46 a.m.]

[Docket No. G-4804 etc.]

ALMA M. SCHRADER ET AL.

Findings and Order; Correction

SEPTEMBER 28, 1967.

Alma M. Schrader, Agent for L. D. Nutter et al. (successor to L. D. Nutter et al.) and other applicants listed herein, Docket Nos. G-4804, et al.; J. E. Allen et al. doing business as Crane Creek Gas Co., Docket No. CI68-76.

In findings and orders after statutory hearing issuing certificates of Public convenience and necessity, amending certificates, permitting and approving abandonment of service, terminating certificates, severing proceedings, terminating rate proceeding and accepting related rate schedules and supplements for filing, issued September 12, 1967, and published in the FEDERAL REGISTER September 21, 1967 (F.R. Doc. 67-10984, 32 F.R. 13347), Docket Nos. G-4804 et al., page 13347, change FPC Gas Rate Schedule, column 5 of the table, to read "No. 1" in lieu of "No. 2" for Docket No.

CI68-76, J. F. Allen et al., doing business as Crane Creek Gas Co.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-11893; Filed, Oct. 9, 1967;
8:46 a.m.]

[Docket No. CP68-97]

SOUTH SEMINOLE NATURAL GAS AUTHORITY AND FLORIDA GAS TRANSMISSION CO.

Notice of Application

OCTOBER 2, 1967.

Take notice that on September 22, 1967, South Seminole Natural Gas Authority (Applicant), 8 Lotus Lake Drive, Casselberry, Fla. 32707, filed in Docket No. CP68-97 an application pursuant to subsection (a) of section 7 of the Natural Gas Act for an order of the Commission directing Florida Gas Transmission Co. (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for resale and distribution in the communities of Casselberry and Longwood, together with other communities and rural customers, in southern Seminole County, Fla., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct a municipal natural gas distribution system serving the communities of Casselberry and Longwood and other communities and rural customers in its service area in southern Seminole County, Fla. Applicant also proposes that Respondent construct a lateral pipeline, approximately 1.8 miles in length, to a point of interconnection with Applicant's proposed facilities. Applicant estimates its third-year peak daily and annual natural gas requirements at 1,308 Mcf and 80,854 Mcf, respectively.

Applicant estimates the total cost of the facilities proposed at approximately \$523,000, said cost to be financed by the issuance of Gas Revenue Bonds.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 27, 1967.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-11894; Filed, Oct. 9, 1967;
8:46 a.m.]

[Docket No. CP68-100]

TENNESSEE GAS PIPELINE CO.

Notice of Application

OCTOBER 2, 1967.

Take notice that on September 25, 1967, Tennessee Gas Pipeline Co., a division of Tenneco, Inc. (Applicant), Post Office Box 2511, Houston, Tex. 77001, filed in Docket No. CP68-100 an applica-

tion pursuant to subsection (c) of section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the sale and delivery of volumes of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to construct and operate a meter and regulator station adjacent to its Delta-Portland Line, located in Colbert County, Ala. Applicant also seeks authority to sell and deliver to Tennessee River Gas Co. (River), through the facilities proposed above, up to a maximum daily quantity of 2,040 Mcf of natural gas. Applicant states that the service proposed above can be rendered without any effect on Applicant's service to its other customers or its anticipated underground storage balance.

Applicant estimates the total cost of the facilities proposed at approximately \$9,815, said cost to be initially financed from cash on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before October 30, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-11895; Filed, Oct. 9, 1967;
8:46 a.m.]

[Docket No. CP 68-98]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

OCTOBER 2, 1967.

Take notice that on September 25, 1967, Transcontinental Gas Pipe Line Corp. (Applicant), Post Office Box 1396, Houston, Tex. 77001, filed in Docket No. CP68-98 an application pursuant to subsection (c) of section 7 of the Natural Gas Act for a certificate of public convenience and

necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to construct and operate a sales meter station and appurtenant equipment to be located at Mile Post 1382.53 on Applicant's Mainlines "B" and "C" near Spray, Rockingham County, N.C., said facilities to be utilized as an additional point of delivery to North Carolina Gas Service Division of Pennsylvania & Southern Gas Co. (NCGS), an existing resale customer. Applicant states that NCGS has requested the additional point of delivery to enable it to render natural gas service to the Duke Power Co. (Duke) Dan River generating station, Rockingham County, N.C., said service to be rendered from volumes of natural gas previously authorized by the Commission.

Applicant estimates the total cost of the proposed facilities at approximately \$53,200, said cost to be initially financed from available company funds and later fully reimbursed by NCGS.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before October 27, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-11896; Filed, Oct. 9, 1967;
8:46 a.m.]

[Docket No. CP68-101]

TRANSWESTERN PIPELINE CO.

Notice of Application

OCTOBER 2, 1967.

Take notice that on September 25, 1967, Transwestern Pipeline Co. (Applicant), Post Office Box 1502, Houston, Tex. 77001, filed in Docket No. CP68-101 a "budget-type" application pursuant to subsection (c) of section 7 of the Natural Gas Act, as implemented by § 157.7(b) of the regulations under the Act, for a certificate

of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to construct and operate, during calendar year 1968, routine gas purchase facilities necessary to enable it to take into its certificated main pipeline system natural gas which is or will become available in its general supply area. Applicant states that the natural gas to be purchased will be used to satisfy its present system-wide requirements and no new or additional sales are proposed.

Applicant states that the total cost of the proposed facilities will not exceed \$1,500,000 and no single project will exceed a cost of \$375,000, said cost to be financed from funds made available from company operations.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before October 30, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-11897; Filed, Oct. 9, 1967;
8:46 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 637]

NEW YORK

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of September 1967, because of the effects of certain disasters, damage resulted to residences and business property located in Cattaraugus County, in the State of New York;

Whereas, the Small Business Administration has investigated and received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) (1) of the Small Business Act, as amended, may be received and considered by the offices below indicated from persons or firms whose property, situated in the aforesaid County and areas adjacent thereto, suffered damage or destruction resulting from floods occurring on September 28, 1967.

OFFICES

Small Business Administration Regional Office, Fayette and Salina Streets, Syracuse, N.Y. 13202.

Small Business Administration Branch Office, 121 Ellicott Street, Buffalo, N.Y. 14203.

2. A temporary office will be established at such other area as is necessary, address to be announced locally.

3. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to April 30, 1968.

Dated: October 3, 1967.

ROBERT C. MOOR,
Administrator.

[F.R. Doc. 67-11885; Filed, Oct. 9, 1967;
8:45 a.m.]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN REPUBLIC OF THE PHILIPPINES

Entry and Withdrawal From Warehouse for Consumption

OCTOBER 4, 1967.

On September 22, 1967, the Government of the United States, in furtherance of the objectives of and under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded an agreement with the Republic of the Philippines further amending the bilateral agreement of February 24, 1964, concerning exports of cotton textiles and cotton textile products from the Republic of the Philippines to the United States. Among the provisions of the agreement as amended are those applying specific export limitations to Categories 9, 22, 26, 61, and 62, for the 12-month period beginning January 1, 1967.

There is published below a letter of October 3, 1967, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, directing that as soon as possible and for the period extending through December 31, 1967, entry into the United

States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 9, 22, 26, 61, and 62, produced or manufactured in the Republic of the Philippines and exported to the United States on or after January 1, 1967, be limited to the designated levels.

STANLEY NEHMER,
Chairman, Interagency Textile
Administrative Committee,
and Deputy Assistant Secretary
for Resources.

THE SECRETARY OF COMMERCE

PRESIDENT'S CABINET TEXTILE ADVISORY
COMMITTEE

WASHINGTON, D.C. 20230

October 3, 1967.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226

DEAR MR. COMMISSIONER: This directive supplements and amends but does not cancel the directive issued to you on December 23, 1966, by the Chairman, President's Cabinet Textile Advisory Committee regarding imports of cotton textiles and cotton textile products produced or manufactured in the Republic of the Philippines.

Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, in accordance with the bilateral cotton textile agreement of February 24, 1964, as amended, between the United States and the Republic of the Philippines, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed to prohibit, effective as soon as possible and for the period extending through December 31, 1967, entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton textiles and cotton textile products in Categories 9, 22, 26, 61, and 62, produced or manufactured in the Republic of the Philippines, in excess of the following adjusted levels of restraint:

Category	12-month levels of restraint	Adjusted levels of restraint
9.....	1,000,000 sq. yds.	872,222. ¹
22.....	1,000,000 sq. yds.	671,633. ¹
26.....	1,000,000 sq. yds. (of which not more than 200,000 sq. yds. may be in duck 7).	1,000,000 ¹ (of which not more than 200,000 sq. yds. may be in duck 7).
61.....	1,500,000 doz. ²	1,500,000. ³
62.....	100,000 doz.	0. ⁴

¹ These levels have been adjusted to reflect entries made during the period beginning Jan. 1, 1967, and extending through Aug. 31, 1967. No adjustments have been made for entries after Aug. 31, 1967.

² Only T.S.U.S.A. Nos.:

329...01 through 04, 06, 08

321...01 through 04, 06, 08

322...01 through 04, 06, 08

323...01 through 04, 06, 08

327...01 through 04, 06, 08

324...01 through 04, 06, 08

³ This level has not been adjusted to reflect entries made on or after Jan. 1, 1967.

⁴ The 12-month level of restraint established for this category in this directive amends the level set forth in the directive of Dec. 23, 1966.

Entries of cotton textiles and cotton textile products in Categories 9, 22, 26, and 62 produced or manufactured in the Republic of the Philippines and which have been exported to the United States from the Philippines prior to January 1, 1967, shall not be subject to this directive. However, entries of cotton

textiles and cotton textile products in Category 61 produced or manufactured in the Republic of the Philippines and which have been exported to the United States from the Republic of the Philippines prior to January 1, 1967, shall, to the extent of any unfilled balances, be charged against the level of restraint established for such goods during the period January 1, 1966, through December 31, 1966. In the event that the level of restraint established for the period January 1, 1966, through December 31, 1966, has been exhausted by previous entries, such goods shall be subject to the directives set forth in this letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on July 7, 1966 (31 F.R. 9310).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton textiles and cotton textile products from the Republic of the Philippines have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

A. B. TROWBRIDGE,
Secretary of Commerce, Chairman,
President's Cabinet Textile Ad-
visory Committee.

[F.R. Doc. 67-11900; Filed, Oct. 9, 1967;
8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 2-6869 (22-597), 2-7496 (22-756)]

SWIFT AND CO.

Notice of Application and Opportunity for Hearing

OCTOBER 4, 1967.

Notice is hereby given that Swift and Co. has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (hereinafter referred to as the Act) for a finding by the Commission that the trusteeship of the First National Bank of Chicago (First National) under indenture of the company dated as of January 1, 1947 (1947 Indenture) which was heretofore qualified under the Act, and trusteeship by First National under a new indenture dated as of August 1, 1967, which was not qualified under the Act is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify First National from acting as Trustee under the 1947 Indenture and under the new indenture.

Section 310(b) of the Act, which is included in section 6.07 of the 1947 Indenture, provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it

shall within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions, stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities of the same issuer are outstanding.

The present application, filed pursuant to clause (ii) of section 310(b)(1) of the Act (as set forth in section 6.7 of the 1947 Indenture), seeks to exclude the new indenture from the operation of section 310(b)(1) of the Act.

The effect of the provision contained in clause (ii) of section 310(b)(1) of the Act on the matter of the present application is such that the new indenture may be excluded from the operation of section 310(b)(1) of the Act (as set forth in section 6.07 of the 1947 Indenture) if the company shall have sustained the burden of proving, by this application, to the Commission and after opportunity for hearing thereon that the trusteeship of First National under the 1947 Indenture and under the new indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify First National from acting as trustee under the 1947 Indenture.

The Company alleges that:

(1) The company proposes to issue and sell \$50 million aggregate principal amount of its 6.30 percent twenty-five year debentures due 1992, to be issued under an indenture dated August 1, 1967 (new indenture), to be executed by the company with the First National Bank of Chicago, as trustee;

(2) The company proposes to issue and sell the new debentures to a limited number of institutional purchasers which will purchase the same for investment and not with a view to distribution. The debentures to be issued pursuant to the 1967 Indenture are therefore exempt from the registration requirements of the Securities Act of 1933 and the 1967 Indenture is exempt from the qualification provisions of the Trust Indenture Act of 1939;

(3) The company has outstanding \$20 million (of which \$2,273,000 is held in treasury) of its twenty-five year 2½ percent debentures due 1972, issued under an indenture dated as of January 1, 1947. The 1947 Debentures were registered under the Securities Act of 1933 (File No. 2-6869) and the 1947 Indenture was qualified under the Trust Indenture Act of 1939;

(4) The company has outstanding \$44 million of its twenty-five year 4¾ debentures due 1983, issued under an indenture dated as of October 1, 1958. The 1958 Debentures were not registered under the Securities Act of 1933, and the 1958 Indenture was not qualified under the Trust Indenture Act of 1939, inasmuch as the same were exempt from registration and qualification. The company filed an ap-

plication pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939, which said application was granted by order of the Commission dated December 8, 1958;

(5) The company has outstanding \$28,800,000 twenty-five year 4¾ percent debentures due 1986, issued under an indenture dated as of June 1, 1961. The 1961 Debentures were not registered under the Securities Act of 1933, and the 1961 Indenture was not qualified under the Trust Indenture Act of 1939, inasmuch as the same were exempt from registration and qualification. The company filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939, which said application was granted by order of the Commission dated July 26, 1961.

(6) Neither the 1958 Indenture nor the 1961 Indenture contain any definition of "conflicting interest" or any other similar term or any provision related thereto;

(7) The 1947 Indenture, the 1958 Indenture, and 1961 Indenture and the new indenture are wholly unsecured;

(8) The company is not in default under the 1947 Indenture, the 1958 Indenture, or the 1961 Indenture.

(9) Such differences as exist between the 1947, 1958, and 1961 Indentures and the new indenture are not likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the trustee from acting as such under the 1947 Indenture.

(10) The debentures outstanding under each of the company's indentures and the debentures issued and to be issued under the new indenture rank in all respects pari passu one with another and without preference or priority of any kind or character one over another.

For a more detailed statement of the matter of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C.

Notice is further given that any interested person may, not later than November 7, 1967, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission (pursuant to delegated authority).

[SEAL]

ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-11906; Filed, Oct. 9, 1967;
8:47 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM WAGES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.) and Administrative Order No. 595 (31 F.R. 12981) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. For each certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations; such conditions in certificates not issued under the supplemental industry regulations are as indicated.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.20 to 522.25, as amended).

The following normal labor turnover certificates authorize 10 percent of the total number of factory production workers except as otherwise indicated.

Adamsville Shirt Manufacturing Co., Adamsville, Tenn.; 9-8-67 to 9-7-68 (ladies' blouses).

Alexander Industrial Garment Manufacturing Co., Inc., Alexandria, Tenn.; 8-15-67 to 8-14-68 (work shirts).

H. Alter & Co., Kingston, Pa.; 9-22-67 to 9-21-68 (men's outerwear jackets).

Angier Garment Co., Angier, N.C.; 9-3-67 to 9-2-68 (men's dress shirts).

Anniston Sportswear Corp., Anniston, Ala.; 9-10-67 to 9-9-68 (men's dress trousers).

The Arrow Co., Division of Cluett, Peabody & Co., Inc., Albertville, Ala.; 9-8-67 to 9-7-68 (men's dress shirts).

The Bennettsville Co., Division of Florence Manufacturing Co., Inc., Bennettsville, S.C.; 9-12-67 to 9-11-68 (ladies' dresses).

Michael Berkowitz Co., Inc., Uniontown, Pa.; 9-12-67 to 9-11-68 (men's pajamas).

Big River Manufacturing Co., Kiltanning, Pa.; 8-23-67 to 8-22-68 (boys' shirts).

Brew-Schneider Manufacturing Co., Inc., Blakely, Ga.; 9-4-67 to 9-3-68 (washable service garments).

Brooks Seas Manufacturing Co., Wilkes-Barre, Pa.; 8-15-67 to 8-14-68; 4 learners (children's outerwear jackets).

Brookside Industries, Inc., Reldsville, N.C.; 8-12-67 to 8-11-68 (men's shirts).

Caledonia Manufacturing Co., Caledonia, Miss.; 9-11-67 to 9-10-68 (men's dress and play slacks).

Childress Manufacturing Co., Inc., Childress, Tex.; 9-15-67 to 9-14-68 (ladies' and girls' dusters).

Columbus Manufacturing Co., Tabor City, N.C.; 8-31-67 to 8-30-68; 10 learners (boys' sport shirts).

Continental Manufacturing Co., Knoxville, Iowa; 9-20-67 to 9-19-68 (single pants).

Continental Manufacturing Co., Oskaloosa, Iowa; 9-20-67 to 9-19-68 (single pants).

Curtis Manufacturing Co., Orlando, Fla.; 8-19-67 to 8-18-68; 10 learners (men's and boys' trousers).

Delmende Slacks, Inc., Okolona, Miss.; 8-23-67 to 8-22-68 (ladies' slacks).

Detroit Slacks, Inc., Detroit, Ala.; 9-1-67 to 8-31-68 (men's and boys' dress and play slacks).

Dickson Manufacturing Co., Dickson, Tenn.; 8-8-67 to 8-7-68 (men's work shirts).

Edmonton Manufacturing Co., Edmonton, Ky.; 8-6-67 to 8-5-68 (men's coveralls, pants, and outerwear jackets).

Elder Manufacturing Co., Dexter, Mo.; 8-21-67 to 8-20-68 (men's and boys' shirts and slacks).

Eudora Garment Corp., Eudora, Ark.; 9-2-67 to 9-1-68 (washable service apparel).

Excelsior Frocks, Inc., Archbald, Pa.; 8-8-67 to 8-7-68; 10 learners (ladies' dresses).

Fairmont Manufacturing Co., Inc., Fairmont, N.C.; 9-14-67 to 9-13-68; 10 learners (ladies' night gowns and pajamas).

Fleetline Industry, Inc., Garland, N.C.; 8-23-67 to 8-22-68 (men's sport shirts).

The Foster Co., Greenville, Ala.; 8-4-67 to 8-3-68 (men's and boys' trousers).

G-B Manufacturers, Inc., Owego, Kans.; 9-7-67 to 9-6-68 (men's army fatigues).

G & J Manufacturing Inc., of New Bedford, New Bedford, Mass.; 8-18-67 to 8-17-68; 5 learners (women's and misses' dresses).

G & S Manufacturing Inc., Auburn, Nebr.; 8-31-67 to 8-30-68 (boys' and infants' outerwear coats and pants).

Garan, Inc., Philadelphia, Miss.; 9-5-67 to 9-4-68 (men's and boys' dress and sport pants).

Garan, Inc., Kosciusko, Miss.; 8-26-67 to 8-25-68 (men's and boys' sport shirts).

Garan, Inc., Clinton, Ky.; 8-9-67 to 8-8-68 (men's and boys' sport shirts).

Gary Co., Inc., Gallatin, Tenn.; 8-6-67 to 8-5-68 (men's dress shirts and ladies' blouses).

Glenn Berry Manufacturers, Inc., Commerce, Okla.; 9-20-67 to 9-19-68 (men's army fatigues).

Glenn Clothing Manufacturing Co., Inc., Clintwood, Va.; 8-4-67 to 8-3-68 (men's trousers).

Green Bay Clothing Manufacturers, Inc., Green Bay, Wis.; 9-6-67 to 9-5-68; 10 learners (men's and boys' outerwear coats and outerwear jackets).

Greensboro Manufacturing Co., Greensboro, Ga.; 8-17-67 to 8-16-68 (men's and boys' trousers).

Gross Galesburg Co., Charlton, Iowa; 9-19-67 to 9-18-68 (men's work jackets and coveralls).

Hanover Shirt Co., Inc., Ashland, Va.; 8-21-67 to 8-20-68 (men's sport shirts).

Hatley Sportswear, Inc., Amory, Miss.; 8-12-67 to 8-11-68 (men's dress pants).

Indiana Sportswear, Inc., Clinton, Ind.; 8-28-67 to 8-27-68; 10 learners (men's and boys' outerwear jackets).

Industrial Garment Manufacturing Co., Palestine, Tex.; 9-12-67 to 9-11-68 (men's work pants).

Jaco Pants, Inc., Ashburg, Ga.; 8-17-67 to 8-16-68 (men's trousers).

Janmark, Inc., Alberton, N.C.; 9-20-67 to 9-19-68; 10 learners (men's and boys' outerwear jackets).

Johnsonville Manufacturing Co., Johnsonville, S.C.; 9-8-67 to 9-7-68; 10 learners (ladies' jeans).

Kellywood Co., Calhoun City, Miss.; 8-8-67 to 8-7-68 (boys' trousers).

Kellywood Co., Wesson, Miss.; 8-21-67 to 8-20-68 (men's trousers).

Kennebec Manufacturing Co., Inc., Gardiner, Maine; 8-18-67 to 8-17-68 (children's pants).

Kingtree Industries, Inc., Kingtree, S.C.; 8-15-67 to 8-14-68; 10 learners (ladies' sportswear).

Lockawanna Pants Manufacturing Co., Scranton, Pa.; 9-8-67 to 9-7-68 (trousers).

Laurel Industrial Garment Manufacturing Co., Laurel, Miss.; 9-20-67 to 9-19-68 (men's work shirts).

Laurens Shirt Corp., Laurens, S.C.; 8-14-67 to 8-13-68 (Men's dress and sport shirts).

Linden Manufacturing Co., Birdsboro, Pa.; 8-7-67 to 8-6-68; 10 learners (ladies' blouses).

Linden Manufacturing Co., Newmanstown, Pa.; 8-7-67 to 8-6-68; 5 learners (ladies' blouses).

Linden Manufacturing Co., Reading, Pa.; 8-7-67 to 8-6-68; 10 learners (ladies' blouses).

Linden Manufacturing Co., Womelsdorf, Pa.; 8-7-67 to 8-6-68; 10 learners (ladies' blouses).

Maazel Manufacturing Inc., Savannah, Ga.; 8-22-67 to 8-21-68; 10 learners (ladies' uniforms).

Mar-Bax Shirt Co., Inc., Gassville, Ark.; 8-5-67 to 8-4-68 (men's dress shirts).

McCoy Manufacturing Co., Inc., Sulligent, Ala.; 9-8-67 to 9-7-68 (men's and boys' dress and play slacks).

Allan Merrill Manufacturing Co., Chisholm, Minn.; 8-14-67 to 8-13-68 (men's and boys' outerwear jackets).

Meyersdale Manufacturing Co., Inc., Meyersdale, Pa.; 9-4-67 to 9-3-68 (men's dress shirts).

Morehead City Garment Co., Morehead City, N.C.; 9-13-67 to 9-12-68 (men's sport shirts).

Oshkosh B'Gosh, Inc., Columbia, Ky.; 9-24-67 to 9-23-68 (men's and boys' dungarees).

Oxford Dress Manufacturing Co., Inc., Shamokin, Pa.; 8-21-67 to 8-20-68 (dresses).

Pajama-Craft Manufacturing Co., Inc., Littlestown, Pa.; 8-3-67 to 8-2-68; 10 learners (men's and boys' pajamas).

Pella Manufacturing Corp., Pella, Iowa; 9-18-67 to 9-18-68; 10 learners (overall, dungarees, coveralls, and work shirts).

Penn State Coat & Apron Manufacturing Co., Inc., Clifton Heights, Pa.; 9-18-67 to 9-17-68 (washable wearing apparel).

Pennsylvania Brassieres Corp., Meyersdale, Pa.; 9-12-67 to 9-11-68 (women's brassieres).

Petersburg Manufacturing Co., Petersburg, Tenn.; 8-23-67 to 8-22-68 (boys' sport shirts).

Phil Campbell Manufacturing Co., Phil Campbell, Ala.; 8-23-67 to 8-22-68 (boys' jeans).

Piedmont Garment Co., Inc., Harmony, N.C.; 8-22-67 to 8-21-68 (ladies' dresses and blouses).

Plains Manufacturing Co., Inc., Plains, Pa.; 8-18-67 to 8-17-68 (brassieres).

Plantersville Sportswear, Inc., Plantersville, Miss.; 8-5-67 to 8-4-68 (men's dress slacks).

Prescott Manufacturing Corp., Prescott, Ark.; 9-15-67 to 9-14-68 (men's and boys' pajamas).

Raycord Co., Inc., Spartanburg, S.C.; 8-22-67 to 8-21-68 (men's sport shirts).

Reed Manufacturing Co., Nettleton, Miss.; 8-9-67 to 8-8-68 (men's and boys' trousers).

Relda Apparel Manufacturing Co., Inc., Hughesville, Pa.; 9-1-67 to 8-31-68; 10 learners (women's, misses', and juniors' dresses).

Ridgely Manufacturing Corp., Inc., Ridgely, Tenn.; 9-14-67 to 9-13-68 (outerwear jackets).

Rita's Sportswear, Moscow, Pa.; 9-18-67 to 9-17-68 (children's dresses).

Eddie Ross, doing business as Salley Manufacturing Co., Salley, S.C.; 9-12-67 to 9-11-68 (ladies' slacks).

Rowan Industries, Inc., Rockwell, N.C.; 9-3-67 to 9-2-68 (ladies' pajamas and gowns).

Roydon Wear, Inc., McRae, Ga.; 9-12-67 to 9-11-68 (boys' trousers).

Salem Garment Co., Salem, S.C.; 8-25-67 to 8-24-68 (women's dresses).

Saltillo Manufacturing Co., Division of Henry I. Siegel Co., Inc., Saltillo, Tenn.; 9-27-67 to 9-26-68 (men's and boys' sport shirts).

Sanford Manufacturers, Inc., Sanford, Fla.; 9-3-67 to 9-2-68 (men's and boys' pajamas).

Sampson Sewing Co., Clinton, N.C.; 8-22-67 to 8-21-68 (children's outerwear coats, outerwear jackets, and snow pants).

Saul Manufacturing Corp., Wilmington, Del.; 8-30-67 to 8-29-68; 10 learners (ladies' dresses and slacks).

Scamper Sportwear, Inc., Hazleton, Pa.; 9-4-67 to 9-3-68 (ladies' and children's outerwear jackets).

Sevier Industries, Inc., Sevierville, Tenn.; 8-24-67 to 8-23-68 (men's and boys' work pants).

Shawnee Garment Manufacturing Corp., Shawnee, Okla.; 8-25-67 to 8-24-68; 10 learners (men's and boys' overalls and jeans).

Henry I. Siegel Co., Inc., Eloy, Ariz.; 9-28-67 to 9-27-68 (men's and boys' pants).

Henry I. Siegel Co., Inc., Fulton, Ky.; 9-24-67 to 9-23-68 (men's and boys' pants).

Henry I. Siegel Co., Inc., Verona, Miss.; 9-24-67 to 9-23-68 (men's and boys' sport shirts).

The Solomon Co., Collinsville Division, Collinsville, Ala.; 9-7-67 to 9-6-68; 10 learners (men's slacks, walking shorts).

Somerset Shirt & Pajama Co., Somerset, Pa.; 8-23-67 to 8-22-68 (boys' nightwear).

Sportcraft, Inc., McAdoo, Pa.; 9-5-67 to 9-4-68; 10 learners (girls' outerwear jackets).

Stapleton Garment Co., Stapleton, Ga.; 9-23-67 to 9-22-68 (men's and boys' trousers).

Levi Strauss & Co., Tyler, Tex.; 9-12-67 to 9-11-68 (men's and boys' jeans).

Levi Strauss & Co., Wichita Falls, Tex.; 8-25-67 to 8-24-68 (men's and boys' pants). Sweetwater Manufacturing Co., Sweetwater, Tex.; 9-9-67 to 9-8-68 (ladies' and girls' pajamas).

Tallassee Manufacturing Co., Inc., Tallassee, Ala.; 8-28-67 to 8-27-68 (women's and children's sportswear).

Tloga Sportswear Corp., Fall River, Mass.; 8-31-67 to 8-30-68 (men's and boys' outerwear jackets).

Toby Manufacturing Co., Inc., Essex, Baltimore, Md.; 8-4-67 to 8-3-68 (men's work pants).

Todd Manufacturing Co., Elkton, Ky.; 8-19-67 to 8-18-68 (men's work shirts and work jackets).

Tunxis Sportswear Manufacturing Co., Inc., and Laurel Togs, Inc., New London, Conn.; 9-2-67 to 9-1-68; 6 learners (outerwear jackets and outerwear coats).

Valley Modes and Sudan Modes, Olyphant, Pa.; Valley Modes, Jermy, Pa.; 9-14-67 to 9-13-68 (ladies' cotton dresses).

Vernon Manufacturing Co., Inc., Vernon, Ala.; 9-1-67 to 8-31-68 (men's dress pants).

Wilcox Garment Co., Inc., Rochelle, Ga.; 9-15-67 to 9-14-68 (men's and boys' dress shirts).

Williamson-Dickie Manufacturing Co., Bainbridge, Ga.; 9-14-67 to 9-13-68 (men's and boys' pants).

Williamson-Dickie Manufacturing Co., Westaco, Tex.; 8-18-67 to 8-17-68 (men's and boys' pants).

Williamson-Dickie Manufacturing Co., McAllen, Tex.; 8-21-67 to 8-20-68 (men's and boys' pants).

J. M. Wood Manufacturing Co., Inc., Hillsboro, Tex.; 8-21-67 to 8-20-68 (men's trousers).

Wright Manufacturing Co., Inc., Bowman, Ga.; 8-14-67 to 8-13-68 (men's and boys' trousers).

The following plant expansion certificates were issued authorizing the number of learners indicated.

Ardmore Industries, Inc., Ardmore, Tenn.; 9-8-67 to 3-7-68; 60 learners (men's and boys' work pants).

Michael Berkowitz Co., Inc., Uniontown, Pa.; 9-14-67 to 3-13-68; 15 learners (men's pajamas).

Charleston Manufacturing Co., Charleston Heights, S.C.; 9-11-67 to 3-10-68; 20 learners (ladies' dresses).

Form-O-Uth, Inc., doing business as Marie Foundations, Pampa, Tex.; 8-24-67 to 2-23-68; 45 learners (bras and girdles).

Fortex Manufacturing Co., Inc., Fort Deposit, Ala.; 8-21-67 to 2-20-68; 30 learners (men's pajamas).

G-B Manufacturers, Inc., Crane, Mo.; 9-5-67 to 3-4-68; 50 learners (men's and boys' slacks).

Johnsonville Manufacturing Co., Johnsonville, S.C.; 9-20-67 to 3-19-68; 40 learners (ladies' jeans).

Lawton Manufacturing Co., Lawton, Okla.; 8-14-67 to 2-13-68; 120 learners (men's and boys' trousers).

March Sportswear Co., Hamburg, Pa.; 8-23-67 to 2-22-68; 20 learners (ladies' shorts and slacks).

Morgan Apparel, Inc., Wartburg, Tenn.; 9-1-67 to 2-29-68; 50 learners (work shirts).

Pecos Garment Co., Pecos, Tex.; 9-11-67 to 3-10-68; 50 learners (men's and boys' dungarees).

Sanford Manufacturers, Inc., Sanford, Fla.; 9-11-67 to 3-10-68; 10 learners (men's and boys' pajamas).

Henry I. Siegel Co., Inc., Eloy, Ariz.; 9-11-67 to 3-10-68; 15 learners (men's and boys' pants).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.60 to 522.65 as amended).

The Glove Corp., Heber Springs, Ark.; 9-18-67 to 9-17-68; 10 learners for normal labor turnover purposes (work gloves).

Good Luck Glove Co., Vienna, Ill.; 9-6-67 to 3-5-68; 30 learners for plant expansion purposes (work gloves).

Good Luck Glove Co., Vienna, Ill.; 9-1-67 to 8-31-68; 10 learners for normal labor turnover purposes (work gloves).

Haynesville Manufacturing Co., Inc., Haynesville, La.; 8-6-67 to 8-5-68; 10 percent of the total number of machine stitchers for normal labor turnover purposes (work gloves).

Monte Glove Co., Inc., Shelbyville, Ind.; 8-28-67 to 8-27-68; 5 learners for normal labor turnover purposes (work gloves).

St. Johnsbury Glovers, Division of Crescendoe Gloves, Inc., St. Johnsbury, Vt.; 9-21-61 to 9-20-68; 10 learners for normal labor turnover purposes (leather gloves).

Tex-Sun Glove Co., Corsicana, Tex.; 8-19-67 to 8-18-68; 10 learners for normal labor turnover purposes (work gloves).

Wells Lamont Corp., Eupora, Miss.; 8-31-67 to 8-30-68; 10 percent of the total number of machine stitchers for normal labor turnover purposes (work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.40 to 522.43, as amended).

Broadway Hosiery Mills, Inc., Asheville, N.C.; 9-22-67 to 9-21-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

J. A. Cline & Son, Inc., Hildebran, N.C.; 8-20-67 to 8-19-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

De Kalb Hosiery Mills, Inc., Fort Payne, Ala.; 8-15-67 to 8-14-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Excel Hosiery Mills, Inc., Union, S.C.; 9-17-67 to 9-16-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Fort Payne Hosiery Mills, Inc., Fort Payne, Ala.; 8-24-67 to 8-23-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Melrose Hosiery Mills, Inc., High Point, N.C.; 9-18-67 to 9-17-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Valley Hosiery Mills, Inc., Fort Payne, Ala.; 8-20-67 to 8-19-68; 5 learners for normal labor turnover purposes (seamless).

Virginia Maid Hosiery Mills, Inc., Acme Hosiery Dye Works, Inc., Pulaski, Va.; 8-8-67 to 8-7-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless, full-fashioned).

Virginia Maid Hosiery Mills, Inc., Acme Hosiery Dye Works, Inc., Pulaski, Va.; 8-15-67 to 2-14-68; 15 learners for plant expansion purposes (seamless, full-fashioned).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.30 to 522.35, as amended).

Beauty Maid Mills, Inc., Statesville, N.C.; 9-9-67 to 9-8-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' panties and gowns).

Buckeye Industries, Inc., Buckeye, Ariz.; 9-13-67 to 9-12-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' sleepwear).

Dawson Industries, Inc., Dawson, Ga.; 9-11-67 to 9-10-68; 5 learners for normal labor turnover purposes (ladies' and children's pajamas, gowns and panties).

Isaacson-Carrico Manufacturing Co., El Campo, Tex.; 8-25-67 to 8-24-68; 5 learners for normal labor turnover purposes (girls' underwear and sleepwear).

Junior Form Lingerie Corp., Boswell, Pa.; 9-14-67 to 9-13-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' underwear).

Junior Form Lingerie Corp., Boswell, Pa.; 8-2-67 to 8-1-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (slips).

Louis Gallet, Inc., Uniontown, Pa.; 8-31-67 to 2-29-68; 10 learners for plant expansion purposes (sweaters).

Sierra Lingerie Co., Ogden, Utah; 8-25-67 to 8-24-68; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' and children's panties).

Each learner certificate has been issued upon the representations of the employer, which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 15 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of

29 CFR 522.9. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR Part 528.

Signed at Washington, D.C., this 29th day of September 1967.

ROBERT G. GRONEWALD,
Authorized Representative
of the Administrator.

[F.R. Doc. 67-11905; Filed, Oct. 9, 1967;
8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 467]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 5, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 30605 (Sub-No. 142 TA), filed October 2, 1967. Applicant: THE SANTA FE TRAIL TRANSPORTATION COMPANY, 433 East Waterman, Post Office Box 56, ZIP 67201, Wichita, Kans. 67202. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, Between Marietta, Okla., and Dallas, Tex.; from Marietta, over U.S. Highway 77 (Interstate 35) to Dallas, and return over the same route, serving no intermediate points, but serving Dallas and the Dallas commercial zone with interline service proposed at Dallas. Applicant proposes to tack the authority sought with applicant's authority in Item 45 of certificate MC 30605 of November 23, 1948. Between Junction of U.S. Highway 77 and U.S. Highway

377 and Fort Worth, Tex.; from the junction of U.S. Highway 77 and U.S. Highway 377, at or near Denton, Tex., with no service at Denton, over U.S. Highway 377 to Fort Worth, and return over the same route, serving no intermediate points, but serving Fort Worth and the Fort Worth commercial zone. Applicant proposes to interline at Fort Worth and to operate over U.S. Highway 77 from its junction with U.S. Highway 377 to Marietta, Okla., at which point applicant proposes to tack with its existing authority at Marietta, serving no intermediate points between Fort Worth and Marietta, for 180 days. Supporting shipper: Applicant has the support of some (300) shippers, located in 45 cities and towns of Kansas, Oklahoma, Missouri, and Nebraska, which statements may be examined here at the Interstate Commerce Commission in Washington, D.C., or at the field office named below. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 906 Schweitzer Building, Wichita, Kans. 67202.

No. MC 17226 (Sub-No. 30 TA), filed October 2, 1967. Applicant: FRUIT BELT MOTOR SERVICE, INC., 6038 West 29th Street, Cicero, Ill. 60650. Applicant's representative: Eugene L. Cohn, 1 North La Salle Street, Chicago, Ill. 60602. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Machinery and equipment* for laundering, dry cleaning, clothes drying, cooking, refuse disposal, and dishwashing, and *parts and accessories* thereof when transported with and intended for installation thereon, from the plantsites of the Whirlpool Corp., at Findlay, Ohio, to Chicago, Ill.; Anderson, Evansville, Fort Wayne, Indianapolis, Mishawaka, and South Bend, Ind.; Louisville, Ky.; Benton Harbor, St. Joseph, Detroit, Flint, Grand Rapids, Lansing, and Saginaw, Mich.; St. Louis, Mo.; and Milwaukee, Wis. Restriction: The proposed operations are limited to a transportation service to be performed under a continuing contract, or contracts, with the Whirlpool Corp., and Sears, Roebuck & Co. (2) *Machinery and machinery parts, materials, and supplies*, used in the manufacture, shipping, or operation of machinery and equipment for laundering, dry cleaning, clothes drying, cooking, refuse disposal, and dishwashing, and *parts and accessories* thereof when moving in connection therewith and intended for installation thereon, (a) from Chicago, Ill.; Evansville, Lafayette, and La Porte, Ind.; Louisville, Ky.; Bangor, Detroit, Grand Rapids, Holland, St. Joseph, and Benton Harbor, Mich.; and St. Louis, Mo.; to the plantsites of the Whirlpool Corp. at Findlay, Ohio; (b) between the plantsites of the Whirlpool Corp. at Findlay, Ohio, and the plantsites of the Whirlpool Corp. at La Porte and Evansville, Ind., and St. Joseph and Benton Harbor, Mich.; (c) from La Porte, Ind.; Louisville, Ky.; Detroit, and Grand Rapids, Mich.; and St. Louis, Mo.; to the plantsites of the Whirlpool Corp. at Marion, Ohio. Restriction: The proposed operations are limited to a transporta-

tion service to be performed under a continuing contract, or contracts, with the Whirlpool Corp., for 180 days. Supporting shippers: The Whirlpool Corp., Benton Harbor, Mich.; Sears Roebuck & Co., Chicago, Ill. Send protests to: District Supervisor Raymond E. Mauk, Interstate Commerce Commission, Bureau of Operations, U.S. Courthouse, Federal Office Building, Room 1036, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 78276 (Sub-No. 2 TA), filed October 2, 1967. Applicant: MAZZEO & SONS EXPRESS, 173 Wortendyke Avenue, Emerson, N.J. 07630. Applicant's representative: Herman B. J. Weckstein, 1060 Broad Street, Newark, N.J. 07102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Wearing Apparel*, on hangers, between the plantsite of Gilbert Carrier Corp. of Secaucus, N.J., on the one hand, and, on the other, points in Bergen, Essex, Hudson, Morris, Passaic, and Union Counties, N.J., and Rockland County, N.Y., for 180 days. Supporting shipper: Gilbert Carrier Corp., 1 Gilbert Drive, Secaucus, N.J. 07094. Send protests to: District Supervisor Joel Morris, Bureau of Operations, Interstate Commerce Commission, 1060 Broad Street, Newark, N.J. 07102.

No. MC 107496 (Sub-No. 591 TA), filed September 28, 1967. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, Post Office Box 50304, Des Moines, Iowa 50309. Applicant's representative: H. L. Fabritz (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid adhesives, dextrine, starch and plastics*, in bulk, in tank vehicles, from Kansas City, Mo., to points in Illinois, Missouri, and Nebraska, for 180 days. Supporting shipper: National Starch & Chemical Corp., 750 Third Avenue, New York, N.Y. 10017. Send protests to: Ellis L. Annett, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 227 Federal Office Building, Des Moines, Iowa 50309.

No. MC 118288 (Sub-No. 25 TA), filed October 2, 1967. Applicant: STEPHEN F. FROST, 1201 First Avenue North, Post Office Box 28, ZIP 59103, Billings, Mont. 59101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byproducts*, from Billings, Mont.; to St. Paul and Minneapolis, Minn.; Eau Claire, Milwaukee, and Madison, Wis.; Chicago and Joliet, Ill.; Omaha, Nebr.; Beach, Bellevue, Dickinson, and Williston, N. Dak.; restricted to shipments originating at Billings, Mont., and terminating at destination points, for 180 days. Supporting shipper: Pierce Packing Co., Post Office Box 1677, Billings, Mont. 59103. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 119931 (Sub-No. 3 TA), filed September 29, 1967. Applicant: HERMAN HEALZER, doing business as P & H TRUCK SERVICE, 3310 Covington Court,

Hutchinson, Kans. 67501. Applicant's representative: James F. Miller, 7501 Mission Road, Shawnee Mission, Kans. 66208. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Peoria, Ill., to Scammon, Kans., and points within 3 miles thereof; and *pallets, beverage containers, and bottles*, on return, for 150 days. Supporting shipper: Saporito Beverage Co., Columbus, Kans. 66725. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 906 Schweiter Building, Wichita, Kans. 67202.

No. MC 126287 (Sub-No. 1 TA), filed September 27, 1967. Applicant: SARA S. WICKER AND HARRY W. GAMBLE, EXECUTORS OF THE ESTATE OF C. A. WICKER, DECEASED, a partnership, doing business as WICKER TRANSFER COMPANY, 1224 Water Avenue, Selma, Ala. 36701. Applicant's representative: Bishop & Carlton, 325 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods as defined by the Commission*, between Selma, Ala., and Craig Air Force Base, Ala.; on the one hand, and, on the other, points within a 75-mile radius of Selma, restricted to shipments having a prior or subsequent movement beyond said points in containers, and further restricted to pickup and delivery services incidental to, and in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such shipments, under contract between applicant and Craig Air Force Base, Ala., for 180 days. Supporting shipper: Where there is not contained a supporting shipper's letter as such, there is attached to the application an affidavit signed by Capt. Charles G. Worthington, USAF, Chief, Base Procurement Division, Craig Air Force Base, Ala., proclaiming that applicant presently holds the packing and crating contract at Craig Air Force Base, Ala. Send protests to: B. R. McKenzie, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 823, 2121 Building, 2121 Eighth Avenue, North Birmingham, Ala. 35203.

No. MC 126463 (Sub-No. 4 TA), filed October 2, 1967. Applicant: GREER BROS. TRUCKING CO., Post Office Box 187, London, Ky. 40741. Applicant's representative: George M. Catlett, 703-706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities in bulk*, except cement, and ferroalloys, and scrap metal, in dump trucks, between points in Campbell County, Tenn., on the one hand, and, on the other, points in Whitley, Knox, Laurel, and Rockcastle Counties, Ky., for 180 days. Supporting shipper: Don

Young, Secretary, Greer Bros. & Young, Inc., Post Office Box 460, London, Ky. 40741; Don Young, President, Greer Bros. & Woodson, Inc., Post Office Box 460, London, Ky. 40741; Don Young, Secretary, G. B. & Y., Inc., Post Office Box 460, London, Ky. 40741. Send protests to: R. W. Schneider, District Supervisor, Interstate Commerce Commission, 207 Exchange Building, 147 North Upper Street, Lexington, Ky. 40507.

No. MC 126835 (Sub-No. 15 TA), filed October 2, 1967. Applicant: EDGAR BISCHOFF, doing business as CASKET DISTRIBUTORS, Rural Route No. 2, West Harrison, Ind. 45030. Applicant's representative: Jack B. Josselson, Atlas Bank Building, Cincinnati, Ohio 45202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Caskets, casket displays, and funeral supplies*, when moving with caskets, from York, Pa., to Dearborn, Grand Rapids, and Saginaw, Mich.; Miami and Tampa, Fla.; Wichita, Kans.; Oklahoma City, Okla.; and Milwaukee, Wis.; for 180 days. Supporting shipper: York Hoover Corp., York, Pa. Send protests to: Bureau of Operations, Interstate Commerce Commission, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, Ind. 46204.

No. MC 129417 TA, filed September 27, 1967. Applicant: GUARDIAN VAN LINES, INC., 605 South Second, Blytheville, Ark. Applicant's representative: Robert J. Gallagher, Professional Building, 66 Central Street, Wellesley, Mass. 02181. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, restricted to shipments moving on the through bill of lading of a forwarder operating under section 402(b)(2) exemption, and having an immediate, prior or subsequent line haul movement by rail, motor, water, or air. The proposed service is limited to providing a local service for a forwarder of used household goods, between points in Mississippi, Randolph, Clay, Greene, Lawrence, Draighead, Poinsett, Crittenden, Jackson, Cross, and St. Francis Counties, Ark., Carter, Ripley, Butler, Stoddard, Scott, Dunklin, Pemiscot, Mississippi, New Madrid, and Cape Girardeau Counties, Mo., Dyer, Gibson, Lauderdale, Crockett, Shelby, Tipton, Haywood, and Fayette Counties, Tenn., for 180 days. Supporting shipper: Vanpac Carriers, Inc., 2114 MacDonald Avenue, Richmond, Calif. 94802. Send protests to: District Supervisor D. R. Partney, Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 129419 TA, filed September 29, 1967. Applicant: JAMES ORLANDO, JR., HENRY J. UTERMÖEHLEN AND JAMES HECKERT, a partnership, doing business as HECKERT, ORLANDO AND UTERMÖEHLEN, 2801 North Broadway, Box 62385, Pittsburg, Kans. 66762. Appli-

cant's representative: J. Curtis Nettels, The Bottenfield Building, Walnut at Fifth, Pittsburg, Kans. 66762. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dirt fill, clay, sand, shale, and rock*, from borrow pit approximately 6 miles from South Albany, Ind., to job site on Interstate Highway 273, Jefferson County, Ky., for 180 days. Supporting shippers: R. B. Potashnick Construction Co., Inc., and J. D. Barter Construction Co., Inc., a partnership, Post Office Box 190, Cape Girardeau, Mo. 63701. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 906 Schweiter Building, Wichita, Kans. 67202.

No. MC 129421 TA, filed September 29, 1967. Applicant: TRAILER EXPRESS, INC., 12427 Rush Street, El Monte, Calif. 91733. Applicant's representative: Ernest D. Salm, Practitioner, 3846 Evans Street, Los Angeles, Calif. 90027. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tent trailers* designed to be drawn by passenger vehicles, when transported in compact form on special motor vehicle equipment, from Centerville, Mich. to points in Los Angeles and Orange Counties, Calif., for 180 days. Supporting shipper: Reseda Campers, 7332 Reseda Boulevard, Reseda, Calif. and Kay Trailer Sales, 406 South Harbor Boulevard, Santa Ana, Calif. 92704. Send protests to: William J. Huetig, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-11900; Filed, Oct. 9, 1967;
8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19068]

AIR AMBULANCE SERVICE

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing on the above-entitled application is assigned to be held on October 17, 1967, at 10 a.m., e.d.s.t., in Room 701, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D.C., October 4, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67-11916; Filed, Oct. 9, 1967;
8:48 a.m.]

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